University of Alberta

Cooperative Management in Alberta
An Applied Approach to Resource Management and Consultation with First Nations

by

Jamie Honda-McNeil ©

A thesis submitted to the Faculty of Graduate Studies and Research in partial fulfillment of the requirements for the degree of Master of Science

Department of Renewable Resources

Edmonton, Alberta

Spring 2000

National Library of Canada
Acquisitions and Bibliographic Services
395 Wellington Street
Ottawa ON K1A 0N4
Canada

Bibliothèque nationale du Canada
Acquisitions et services bibliographiques
395, rue Wellington
Ottawa ON K1A 0N4
Canada

Your file Votre référence

Our file Notre référence

The author has granted a non-exclusive licence allowing the National Library of Canada to reproduce, loan, distribute or sell copies of this thesis in microform, paper or electronic formats.

L'auteur a accordé une licence non exclusive permettant à la Bibliothèque nationale du Canada de reproduire, prêter, distribuer ou vendre des copies de cette thèse sous la forme de microfiche/film, de reproduction sur papier ou sur format électronique.

The author retains ownership of the copyright in this thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without the author's permission.

L'auteur conserve la propriété du droit d'auteur qui protège cette thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

0-612-60129-3

Canada

University of Alberta

Library Release Form

Name of Author: Jamie Honda-McNeil

Title of Thesis: Cooperative Management in Alberta: An Applied Approach to Resource Management and Consultation with First Nations

Degree: Master of Science

Year this Degree Granted: 2000

Permission is hereby granted to the University of Alberta Library to reproduce single copies of this thesis and to lend or sell such copies for private, scholarly or scientific research purposes only.

The author reserves all other publication and other rights in association with the copyright in the thesis, and except as herein before provided, neither the thesis nor any substantial portion thereof may be printed or otherwise reproduced in any material form whatever without the author's prior written permission.

Site 310, Box 91, RR#3
Stony Plain
Alberta
T7Z 1X3

Date: 13 April, 2000

University of Alberta

Faculty of Graduate Studies and Research

The undersigned certify that they have read, and recommend to the Faculty of Graduate Studies and Research for acceptance, a thesis entitled Cooperative Management in Alberta: An Applied Approach to Resource Management and Consultation with First Nations submitted by Jamie Honda-McNeil in partial fulfillment of the requirements for the degree of Master of Science.

Dr. Bruce P. Dancik

Dr. Clifford G. Hickey

Dr. Naomi Krogman

Dr. Robert J. Hudson

4 April, 2000
Date

Abstract

First Nations and renewable resource management agencies in Alberta continue to explore new ways to work together. Their challenge is to examine policy mechanisms for natural resource management that will be acceptable to both parties, and thereby avoid costly and time-consuming court challenges. One equitable partnership model that is being testing in Alberta is cooperative management – a formal approach to establishing a consultation forum between the government of Alberta and First Nations to discuss issues of mutual interest and concern. Currently, three cooperative management agreements exist in Alberta between the provincial government and the Whitefish Lake First Nation, the Little Red River Cree and Tallcree First Nations, and the Horse Lake First Nation. Examination of the structural and functional elements of these agreements and relevant context will help establish a baseline for comparing other or future studies. Moreover, it will shed some light on methods to refine and improve what can only be described at this time as a tenuous, fledgling relationship. Clearly, however, there are important implications for the management of renewable resources in Alberta in the future.

Acknowledgements

I would like to thank –

Dr. Ellie E. Prepas, Dr. Terry Veeman, and Dr. Annette Trimbee, who helped steer me back on course when I was somewhere between Edmonton and Wood Buffalo National Park. I am grateful for your interest.

Dr. Bill Calder and Paul Sparrow-Clarke who provided support and feedback on earlier drafts, and Maja Laird for her editing prowess, time and effort. Thank you very much!

Colleagues and mentors alike, Susan Cartier, Ken Boutillier, Gerry Kushlyk, Keith Leggat, Tom Mill, Leslie Treseder, Ken Sloman, Richard Chabaylo, Simon Knight, Brian Waddell, Kirby Smith, Shirley Nelson, Cameron Henry, and staff of the Department of Environmental Protection, who watched me stumble down this academic path, laughed at me and with me, helped remove obstacles, and encouraged me throughout the journey. And then there's my buddy Kim Brenneis, who gave me his files, articles and books without the hope of ever seeing them again. Well, he gets to have them back now. Thanks Kim!

The University of Alberta Department of Renewable Resources who had the confidence, courage and foresight to allow me to undertake this "fringe topic". Special thanks to Sandy Nakashima, who continued to correct my delinquent status with Grad Studies and the Department of Renewable Resources. Without her, this work would not have been possible.

Cliff Supernault, Jeff Chalifoux, Jim Webb, Brad Kachuk, Dave Johnston, Pat Long, Dan Wilkinson, Howard Gray, Jim Badger, and Dave Luff who took the time to discuss their experiences with me.

The Department of Environment for allowing this evaluation to occur. Specifically, Judy Thomas, Mica Wickramasekara and other Department of Environment Library Services staff who provided invaluable research assistance and support. Your help was greatly appreciated.

Dr. Cliff Hickey, who taught me that panic is only brought about by a lack of preparation. Thanks Cliff, for teaching me to be a Boy Scout. I would also like to thank Dr. Naomi Krogman for her openness and approachability, Dr. Bruce Dancik for taking a chance, and Dr. Robert Hudson for his thoughts and comments. Thanks also go to Dr. Ross Wein, for giving me the opportunity to learn so much through this experience.

Andy Masiuk, my mentor and great teacher, for sharing his wisdom and knowledge, and allowing me the time and opportunity to learn. Thanks Andy!

Rudi for his unconditional support and to Wilma who got tired of waiting for me to finish and went to the big show.

Ogichan and Obachan (Toyoaki and Yoshiko Honda), for spending time with the boys and allowing me the time to work on this project. Your support and commitment to family is inspiring. I only hope I can be as generous as you are.

My boys Makoto and Keisuke for giving me the emotional strength to drag my weary carcass out of bed everyday, and whose existence reminds me that life really is a pleasure, and so are you. I'm sorry this took so long. But, there is much time left and I want to make the most of each day with you.

My greatest source of inspiration, Hiromi, my wife and companion. This process tested the bounds of your patience and demonstrated the boundlessness of your love. Thank you seems but an insult. Without you, nothing is possible – with you, anything is possible.

Table of Contents

1.0 INTRODUCTION 1

1.1 CHAPTER OUTLINES 5

2.0 A SURVEY OF THE ISSUES 7

2.1 CO-MANAGEMENT DEFINED 7

2.2 STRUCTURAL ELEMENTS AND ISSUES OF CO-MANAGEMENT AGREEMENTS 10

2.2.1 Goals of Co-Management 10
2.2.2 Principles 11
2.2.3 Objectives 13
2.2.4 Decision-Making Authority 14
2.2.5 Implementation Procedures 17
2.2.5.1 Membership 17
2.2.5.2 Administration and Funding 19
2.2.5.3 Dispute Resolution 20
2.2.5.4 Monitoring and Evaluation 21

2.3 IMPLEMENTATION CONSIDERATIONS OF CO-MANAGEMENT AGREEMENTS 22

2.3.1 Commitment 23
2.3.2 Communication 23
2.3.2.1 Formal Communication 24
2.3.2.2 Informal Communication 27
2.3.3 Incorporation of Traditional Ecological Knowledge 28
2.3.4 Economic Development/Capacity Building 31
2.3.5 Public and Third Party Involvement 35

2.4 SUMMARY 36

3.0 METHODOLOGY 37

3.1 APPROACH TO DATA COLLECTION 38

3.1.1 Literature Review 39
3.1.2 Participant Observation 39
3.1.3 Semi-structured Interviews 40

3.2 ETHICAL CONSIDERATIONS 42

3.3 APPROACH TO DATA ANALYSIS 44

3.4 SUMMARY 44

4.0 FEDERAL AND LEGISLATIVE CONTEXT 45

4.1 ROYAL PROCLAMATION 1763 45

4.2 THE ALBERTA TREATIES 46

4.3 1930 NATURAL RESOURCE TRANSFER AGREEMENTS 48

4.4 1982 CONSTITUTION ACT 50

4.5 REGINA VERSUS SPARROW 50

4.6 HALFWAY RIVER FIRST NATION V. BRITISH COLUMBIA 52

4.7 DELGAMUUKW V. BRITISH COLUMBIA 53

4.8 SUMMARY 54

5.0 ALBERTA POLICY CONTEXT 56

5.1 MEMORANDUM OF UNDERSTANDING BETWEEN HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ALBERTA AND THE GRAND COUNCIL OF TREATY 8 FIRST NATIONS 56

5.2 UNDERSTANDING ON ALBERTA-FIRST NATIONS RELATIONS 58

5.3 COOPERATIVE MANAGEMENT FRAMEWORK DOCUMENT 58

5.4 SUMMARY 61

6.0 ALBERTA COOPERATIVE MANAGEMENT AGREEMENTS 62

6.1 WHITEFISH LAKE FIRST NATION COOPERATIVE MANAGEMENT AGREEMENT 62

6.2 LITTLE RED RIVER/TALLCREE FOREST PLANNING MEMORANDUM OF UNDERSTANDING 67

6.3 HORSE LAKE FIRST NATION COOPERATIVE MANAGEMENT AGREEMENT 71

6.4 SUMMARY 74

7.0 DISCUSSION AND ANALYSIS OF COOPERATIVE MANAGEMENT IN ALBERTA 75

7.1 STRUCTURAL ELEMENTS OF ALBERTA COOPERATIVE MANAGEMENT AGREEMENTS 75

7.1.1 Goal of Alberta Cooperative Management Agreements 75
7.1.2 Principles of Alberta Cooperative Management Agreements 77
7.1.3 Objectives 78
7.1.4 Decision-Making Authority 80
7.1.5 Implementation Procedures 82
7.1.5.1 Membership 82
7.1.5.2 Administration and Funding 84
7.1.5.3 Dispute Resolution 85
7.1.5.4 Monitoring and Evaluation 86

7.2 OPERATIONAL ELEMENTS OF ALBERTA COOPERATIVE MANAGEMENT AGREEMENTS 87

7.2.1 Commitment 87
7.2.2 Communication 89
7.2.2.1 Formal Communication 90
7.2.2.2 Informal Communication 93
7.2.3 Incorporation of Traditional Ecological Knowledge 94
7.2.4 Economic Development/ Capacity Building 95
7.2.5 Public and Third Party Involvement 97

7.3 SUMMARY 98

8.0 RECOMMENDATIONS 101

8.1 IMPROVING THE FEDERAL/PROVINCIAL RELATIONSHIP 101

8.2 IMPROVING INTERNAL STATE COMMUNICATIONS 102

8.3 FOCUS ON REVIEW AND IMPLEMENTATION OF EXISTING MOUS 103

8.4 FOCUS MORE EFFORT ON CAPACITY BUILDING 106

8.5 ASSIGN KEY CONTACTS 107

8.6 CONTINUE TO EXPLORE POLICY OPTIONS 109

9.0 CONCLUSIONS 113

9.1 THE EVOLVING LEGAL FRAMEWORK 113

9.2 DEMOGRAPHICS 115

9.3 SELF-REGULATION 115

9.4 POLITICAL CORRECTNESS 117

9.5 DENOUEMENT 118

REFERENCES 120

APPENDIX A

Questions for Key Community Participants 133
Additional Questions for Government Participants 134

APPENDIX B

Memorandum of Understanding Between Her Majesty the Queen in Right of the Province of Alberta and the Grand Council of Treaty 8 First Nations, 1993 135

APPENDIX C

Sub-Agreement to the MOU between the Grand Council of Treaty 8 First Nations and her Majesty in Right of the Province of Alberta, 1993 139

APPENDIX D

Understanding on Alberta/First Nations Relations, 1994 143

APPENDIX E

Environmental Protection Cooperative Management Framework, 1996 149

APPENDIX F

Memorandum of Intent Between the Government of Alberta, the Government of Canada, and the Whitefish Lake First Nation, 1988 152

APPENDIX G

Memorandum of Understanding (MOU) between the Whitefish Lake First Nation and the Government of the Province of Alberta, 1994 156

APPENDIX H

Memorandum of Agreement between the Whitefish Lake First Nation and the Government of the Province of Alberta, 1994 159

APPENDIX I

Implementation Plan for the Whitefish Lake First Nation MOU, 1997 164

APPENDIX J

Terms of Reference for the Whitefish Lake First Nation Memorandum of Understanding Implementation Committee, 1997 170

APPENDIX K

Memorandum of Understanding Between the Little Red River Cree Nation, the Tallcree First Nation and the Government of Alberta, 1995 175

APPENDIX L

Letter of Intent Between the Little Red River Cree Nation, the Tallcree First Nation and the Government of Alberta, 1996 186

APPENDIX M

Memorandum of Understanding Between the Little Red River Cree Nation, the Tallcree First Nation and the Government of Alberta, 1999 191

APPENDIX N

Memorandum of Understanding between the Horse Lake First Nation and the Government of the Province of Alberta, 1997 204

APPENDIX 0

Implementation Plan for the Horse Lake First Nation MOU, 1998 209

APPENDIX P

Framework for Developing Consultation Agreements 214

Table of Figures

FIGURE 1
Whitefish Lake First Nation Cooperative Management Area Boundary 63

FIGURE 2
Little Red River/Tallcree Cooperative Management Area Boundary 68

FIGURE 3
Horse Lake First Nation Provincial Location Map 72

The red men know that the white people do not love them, and there exists a feeling of animosity between them. There is such a striking difference between the civilization of the two races, that unity of sentiment and aims becomes an impossibility. The different tendencies arising from the construction of the languages, development of literature, modes of thinking, systems of education and the labors and pleasures of life lead to a diversity of results, where exists ultimate separation, unless a powerful factor is introduced, to overcome these influences, and utilize them in one common direction.

John McLean 1889:276

1.0 Introduction

As we move into the new millennium, First Nations[1] and renewable resource agencies in Alberta continue to explore new and better ways of working together. Their challenge is to examine policy mechanisms for natural resource management that will lead to a balance which is acceptable to both parties, and thereby avoid the 1960s American experience of "professional Indian lawyers and witnesses...living off the litigation" (Schlesinger 1978:408). The purpose of this paper is to examine the relationship between First Nations and resource management policy makers in Alberta in the context of the policy response, "cooperative management".

There are a number of issues driving First Nations demands for a meaningful seat at the resource management policy table. First Nations in Alberta (and elsewhere in Canada) are faced with a rapid acceleration in population growth (about twice the Canadian average). Further, almost two thirds of Aboriginal people are under 30 years of age, and approximately 35 percent of those living on reserves are under the age of 15. In addition, rates of poverty, unemployment (29%, almost three times the overall Canadian rate) and incarceration far exceed the general Canadian or Alberta average (Canada 1996a). Overall, the standard of living for First Nations people is

[1] This paper does not address co-management efforts with the Metis in Alberta. Rather, the focus is on co-management with First Nations or "treaty" people.

below average (ibid.). First Nation communities are seeking wage employment opportunities to supplement the traditional economy. The bulk of those jobs and opportunities are likely to occur in conjunction with resource development activities on provincial Crown lands.

Resource development activities are seriously threatening to engulf First Nation communities once shielded by isolation. According to the Alberta Grand Council of Treaty 8 (1996), the result has been a loss of traditional livelihood, with little benefit flowing back to the community. Previously, First Nations had little interest in developing a working relationship with the provincial governments (Badger 1999); however, they now recognize the importance of partnering with the provinces. First Nations believe they require access to natural resources managed by the provinces in order to become self-sustaining communities (Alberta Native News 1998).

Aboriginal people are demanding a meaningful and increased role in renewable resource management with provinces. They maintain that access to natural resources is a right, part of the rights legally protected by Section 35 of the Constitution Act 1982 (Canada 1982a), that are not enjoyed by other Canadians. Moreover, the Assembly of First Nations (AFN), (Mercredi 1997) doubts the ability of the provincial government to manage natural resources in a sustainable way.[2]

---

[2] In response to concerns about the Canada-Wide Accord on Harmonization of Environmental Management, Ovide Mercredi (then National Chief of the Assembly of First Nations (AFN)) sent a letter to the Honourable Sergio Marchi (then Federal Minister of the Environment). Specifically, the AFN "strongly object(ed)" that the Sub-Agreement on Environmental Assessments was developed without what they called..."meaningful participation as equals in the harmonization process"...(Mercredi, 1997:1). Their specific concerns were that the federal government was not meeting its fiduciary obligations and that the process developed for First Nations' involvement in the environmental assessment process did "not constitute an open, transparent, or inclusive process for First Nations" (Mercredi 1997:1).
In the letter, the AFN also cast doubt upon the ability of the federal and provincial governments to manage the environment in a sustainable way. "Environment Canada and the provincial environmental agencies are moving towards a confrontation with First Nation Peoples when you attempt to implement the sub-agreements of the Accord. We will protect the environment of our territories and we will no longer allow the unsustainable development activities of your society to go unchallenged" (Mercredi 1997:2). Attached with the letter was First Nations Environmental Management Framework Draft Proposal (Ransom 1997) developed for the AFN.

The Alberta Grand Council of Treaty 8 believes that "sustainable development is a compromise initiated by multinational corporations under pressure from environmental interests which will enable them to protect their interests and profits; though environmental concerns are highlighted in the process, they are relegated to a position of lesser importance than development activity itself" (1996:7). In the draft report of the December 16, 1996 Sustainable Development Workshop, the Alberta Grand Council of Treaty 8 also questioned whether its interests were being acknowledged through the existing provincial developmental framework (Alberta Grand Council of Treaty 8 First Nations 1996).

At the same time, the Alberta provincial government is faced with mounting pressure to develop partnerships with First Nations and to examine the existing policies that govern resource management practices and responsibilities. The Constitution Act, 1867, Section 91 (24) identifies that the federal government is responsible for "Indians and land reserved for Indians". However, there is an expanding chasm of uncertainty between the federal and provincial levels of government as to where the division of responsibility lies.[3] This lack of clarity has resulted in a lack of accountability, which translates into inconsistent service delivery and/or duplication of effort at the operational level. In the face of funding reductions to First Nations' programs and services by the federal government, First Nations are turning to the provincial government. In some instances, First Nations are being directed by the federal government to deal with the provinces.

In *Gathering Strength - the Canadian Aboriginal Action Plan*, 1997 (the federal response to the Royal Commission on Aboriginal Peoples Report), the federal government directed First Nations to establish resource management partnerships

[3] The Hawthorn Report, A Survey of the Contemporary Indians of Canada (Hawthorn et al. 1967), established a benchmark for policy discourse on Aboriginal issues. The report considered such weighty matters as: Federal/Aboriginal relationships, poverty and Aboriginal independence. In addition, the *Hawthorn Report* found that there should be more provincial responsibility for Aboriginal people.

with the provinces. *Gathering Strength* also identified such issues as resource revenue sharing, the acceleration of Aboriginal participation in resource-based development, and strengthening the practice of co-management as priorities for the federal government (Canada 1997a). These issues have also become critical for the provincial governments. In Alberta, the question is, how should the province deal with these issues, while at the same time fulfilling its mandate to manage resources for the benefit of **all** Albertans?

Possibly the most significant issue motivating the province to consider partnership arrangements with First Nations deals with the need to create an environment of certainty within which industry can operate. Economic development is one of the cornerstones of the Alberta government - to promote the province as a good place to do business (the "Alberta Advantage"). Having a First Nations population known for civil disobedience (e.g., blockades, public mischief) or legal action (court injunctions, lawsuits) is contrary to that objective. There is also an increasing body of legal decisions dealing with First Nations' access to renewable resources and consultation with First Nations, particularly in cases where Aboriginal or treaty rights may be infringed. These two issues serve as the primary motivators for the province to re-examine its existing relationship with First Nations.

The pressures being brought to bear on the state and on First Nations are forcing a series of responses. For First Nations, the response is simple: "You can reinforce an equitable partnership model or you can have confrontation and litigation" (Webb 1999). One response of the state, imbued of necessity as much as logic, is the policy approach of cooperative management.[4]

As part of the Alberta provincial Aboriginal strategy, cooperative management agreements constitute a formal commitment to talk to and work with First Nations on environmental or renewable resource issues of mutual interest and concern (Alberta

[4] The term cooperative management, used to define the Alberta process, is considered to be a form of co-management. Co-management is defined in Chapter 2. The distinctions between co-management and cooperative management are discussed in Chapter 5.

1996). Currently, three cooperative management agreements exist in Alberta between the provincial government and the Whitefish Lake First Nation, the Little Red River Cree and Tallcree First Nations, and the Horse Lake First Nation. These agreements or Memoranda of Understanding (MOUs) will be compared to each other and in relation to examples elsewhere in the Canadian context. Analysis of the Alberta cooperative management MOUs will be according to structural elements of the agreements and the functional or implementation elements.

There are a number of reasons for undertaking this analysis. To this point there has not been a formal review of cooperative management in Alberta. Examination of these three Alberta agreements will help establish a baseline for comparing other or future studies. Moreover, it will shed some light on methods to refine and improve what can only be described at this time as a tenuous, fledgling relationship. Clearly, however, there are important implications for the management of renewable resources in Alberta in the future.

1.1 Chapter Outlines

The chapters are organized in the following manner. Chapter 2, "A Survey of the Issues", captures information on structural and functional elements of co-management as discussed in the literature. Key topics include defining co-management, and examining issues arising during application and practice, including success factors.

Chapter 3, "Methodology", provides an overview of the approach to methods employed in this thesis, including data handling and analysis. The chapter focuses on interpretive social science, as well as field techniques of participant observation and semi-structured interviews. The chapter also explores the challenges of conducting program reviews within a bureaucratic system.

The purpose of Chapter 4, "Federal and Legislative Context", is to provide the reader with an overview of critical federal and legislative mechanisms that establish the

broad political and legal framework within which First Nations and the state currently dwell. Chapter 5, "Alberta Policy Context", narrows the focus, and outlines the chronology of cooperative management in Alberta. Chapter 6, "Alberta Cooperative Management Agreements", concludes the key background information with a summary of the three Alberta cooperative management agreements.

Chapter 7, "Discussion", provides a critical analysis of the three agreements. This chapter discusses the similarities and differences between the agreements and relates them to the key issues identified in Chapter 2. It is organized in a similar fashion to Chapter 2 for ease of comparison. Chapter 8, "Recommendations", provides insights, approaches, methods and considerations that should be reviewed by the state and First Nations. Chapter 9, "Conclusions", reviews the major findings of the paper. This chapter outlines factors that may pose challenges or obstacles to the state and First Nations in achieving a successful balance in resource management. The chapter also provides some thoughts on future areas of focus.

2.0 A Survey of the Issues

The introductory chapter identified several of the pressures faced by provincial natural resource managers and First Nations that resulted in the development of the policy mechanism called "cooperative management" in Alberta. This chapter begins by defining co-management, of which cooperative management can be considered a variant. The chapter is then split into two themes. The first theme discusses issues related to the structural elements of co-management; that is, the institution itself. Topics discussed include goals, principles, objectives, decision-making authority, and implementation procedures (i.e., membership, administration and funding, dispute resolution, and monitoring and evaluation). The second theme examines the factors that must be considered when operationalizing the co-management institution. Topics discussed under this theme include commitment, communication, creating community capacity, and public and third-party involvement. The intent of this chapter is to examine co-management in order to form a basis for comparison of Alberta's cooperative management agreements.

2.1 Co-Management Defined

Co-management, cooperative management, joint management, participatory management and multi-stakeholder management are all terms that are used synonymously or interchangeably (Berkes 1997). The term co-management, arguably the most widely used of the above terms, is used throughout this paper to avoid confusion[5]. Some descriptions and definitions of co-management follow. Gail

[5]Where the term "cooperative management" is used, it will be in specific reference to the Alberta "co-management process". Cooperative management in Alberta is defined as "an agreement between the province and a First Nation or Aboriginal community establishing a process of consultation or cooperation on renewable resource or environmental matters of mutual interest" (Alberta 1996).

Osherenko describes a co-management regime as follows:

> ...an institutional arrangement in which government agencies with jurisdiction over resources and user groups enter into an agreement covering a specific geographic region and spelling out a system of rights and obligations for those interested in the resource, a collection of rules indicating actions that subjects are expected to take under various circumstances; and procedures for making collective decisions affecting the interests of government actors, user organizations, and individual users (Osherenko 1988b:13).

The federal government has very generally defined co-management as follows:

> Most would agree co-management entails the participation of the local community in the management of natural resources. Participation can take many forms, ranging from receiving information, to playing an advisory role for government, to being delegated legislative authority, to full co-jurisdiction over resources with government (Canada 1996b).

The Royal Commission on Aboriginal Peoples Report defines co-management as:

> ...institutional arrangements whereby governments and Aboriginal (and sometimes other parties) enter into formal agreements specifying their respective rights, powers and obligations with reference to the management and allocation of resources in a particular area (1996, 2:666).

Co-management is both a product (the "agreement" or institution) and a process or "regime" whose development in Canada has generally been motivated by three factors: comprehensive land claims settlements[6], conservation of wildlife based on a perceived conservation crisis, and decisions of the courts.

---

[6] While the political commitment to social justice for Native citizens is now the key factor in the development of comprehensive claims co-management regimes, at one point the primary driver seems to have been government concern for legal certainty as a precursor for northern development (Doubleday 1989). Specific interest in the oil-and gas-rich Arctic, particularly the Beaufort Sea, was the key motivator (Berger 1978). For example, after signing of the James Bay Agreement by the James Bay Cree, the government hailed the agreement as a model for future settlements. The James Bay Cree, however, held a contrary opinion on the matter: "...facing imminent construction of the James Bay Hydro Electric project, massive flooding of their territory, and threats by then Premier of Quebec, Robert Bourassa, to "send in the bulldozers" if they didn't sign, said it was as though they negotiated with a 'shotgun to our heads'"(Hamilton 1995:18).

Comprehensive land claims co-management regimes are situations whereby a process of negotiation occurs between the federal government and First Nations or Inuit as a result of "previously unsettled, unceded and unsurrendered Aboriginal title to lands and resources" (Hamilton 1995:15). A co-management system acknowledging rights in wildlife management and other issues is developed through the negotiation process. Once developed, these agreements constitute legal agreements and commitments.

A second factor that has driven the development of co-management agreements is state perceived population declines in wildlife, such as those responsible for the Beverly-Qamanirjuaq Caribou Management Agreement and the Yukon-Kuskokwim Delta Goose Management Plan (Osherenko 1988a). Most of these are single-species agreements that deal with the ungulate species (moose, caribou or bison) that is the greatest supporter of local subsistence.

The legal decisions made through the courts are a third factor that has motivated the development of co-management regimes. This is particularly significant in response to decisions relating to unextinquished Aboriginal or treaty rights (Swerdfager 1992). In these cases, the courts are directing state managers to address those rights. In Washington and Wisconsin, for example, "the courts ordered the parties to establish management regimes explicitly acknowledging Aboriginal fishing rights and providing specific resource allocations for Aboriginal users" (Swerdfager 1992:6, discussing case studies by Cohen 1989, and Busiahn 1989).

A fourth type of co-management is beginning to emerge: provincially negotiated co-management designed specifically to meet provincial consultation requirements with First Nations. Largely in response to Supreme Court cases[7], resource managers are seeking to ensure their legal obligations to consult with First Nations are met. This is particularly critical in situations that could be interpreted by the courts to be an infringement of existing Aboriginal rights.

[7] See R. vs. Sparrow, R.vs. Delgamuukw and BCSC vs. Halfway River in Chapter 4.

Diversity and flexibility is necessary within co-management agreements to respond to specific local and regional issues and needs. Notwithstanding this flexibility and diversity among co-management agreements, there are core elements that are common to all agreement structures. These are the subjects of the following section.

2.2 Structural Elements and Issues of Co-Management Agreements

The literature review, which included examination of numerous agreements, revealed that co-management agreements typically include the following critical elements: goals, principles, objectives, decision-making authority, and implementation procedures. The key issues as identified in the literature will be discussed as they relate to the five areas identified above.

2.2.1 Goals of Co-Management

Before developing a co-management agreement, there is a need to recognize the purpose of co-management, since it provides people with an understanding of why they should participate in the process. This is becoming a pressing issue, particularly with respect to justifying government budgets, as government departments move into business-like planning. In addition, it is essential to define the parameters of the co-management agreement, which includes the geographic extent of the area and the range of issues to be addressed. Some individuals involved in developing co-management arrangements, however, "indicate that the precise definition of the substantive scope is perceived as a detail to be worked out later" (Swerdfager 1992:9). Unfortunately, the process of "working things out" often results in debate, dispute and a loss of productive meeting time.

One of the most frequently identified problems or concerns of co-management agreements centers on the lack of clarity in the meaning and intent (Swerdfager 1992). Specifically, there seems to be a marked difference between the stated overall goals of the agreements, and the spirit and intent of the agreements (Swerdfager 1992, Murray 1995). This disparity between what is written and how it is interpreted

was a prevalent issue in implementing the James Bay Agreement. The following comment, made during a review at the tenth anniversary of the James Bay Agreement, illustrates this fact.

> Where the letter of the Agreement is clear, Canada has met its commitments or is in the process of doing so. It is in areas where subjective factors, such as the "spirit" of the Agreement are important, that most problems have arisen (Recherches Amerindiennes au Quebec 1988).

There are steps that resource managers can take to improve the clarity of meaning and intent. The first involves defining the extent of co-management in a manner that is clear to all parties to the agreement. This includes not only the geographic extent of the area, but also the resource and the issue to be addressed through the co-management mechanism (Pinkerton 1989). In addition, the co-management regime "must have a mandated basis in order to establish its legitimacy" (National Round Table on the Environment and Economy (NRTEE) 1998:42).

2.2.2 Principles

Co-management principles typically precede the objectives in the co-management agreement. Often in the form of "whereas" clauses, the principles section establishes the context within which the agreement was reached and spells out specific rights and obligations of the parties to the agreement (Swerdfager 1992). Principles that typically require attention in this section include:

- recognition of the need to operate openly and in the spirit of cooperation,
- recognition of inclusiveness,
- recognition and respect of jurisdictional authority,
- recognition of respect for Aboriginal and/or treaty rights, and
- recognition of "ecosystem management" or "sustainable development" approaches.

The need to operate openly and fairly, including information sharing, is considered to be a cornerstone of consensus building (Clifford 1994), which is a primary function of the operation of co-management. This also includes recognition and

respect for cultural differences. Witty suggests a related principle, "governance of diversity", which is described as a management approach to co-management that "reflects the diversity of institutional and community interests without compromising natural and cultural values" (1994:24). In co-management, this translates into incorporation and acceptance of traditional and cultural values within a framework of ecosystem management or sustainable development.

Basically, one of the primary intents of the co-management process is to eliminate or reduce the effects of marginalization on First Nations, not cultivate them by denigrating alternative viewpoints. The effects of intolerance would result in undermining the cooperative management effort and force First Nations to pursue either legal or political options to satisfy their interests.

The principle of inclusiveness suggests that opportunities to participate should be made available to all parties with an interest and a stake in potential co-management outcomes (Witty 1994; Clifford 1994). Rather than adopting a "self-identification" approach, Clifford recommends a proactive approach to solicit the involvement of those who may be unaware they actually have a stake in the outcome. In certain situations, "there may be some whose interests are affected and, perhaps due to a lack of effective communication or awareness, do not know that they have a vested interest in participating and seeking to secure an outcome that they deem satisfactory" (Clifford 1994:48). Numerous agreements also recognize the importance of collaborating with academia, research institutions, industry, and different levels of government (NRTEE 1998; Pinkerton 1989). In Saskatchewan, for example, "all stakeholders – not just Aboriginal people – have an opportunity to make recommendations to the Minister..."(Murray 1995:15).

Most co-management agreements clearly articulate recognition and respect for other jurisdictions. Provincial co-management agreements, for example, recognize provincial jurisdiction and authority where the agreement pertains to off-reserve provincial Crown land. Reciprocally, most agreements also include an affirmation of existing Aboriginal or treaty rights. Moreover, it is acknowledged that these

agreements do not modify or change existing Aboriginal or treaty rights. In addition, there is an acknowledgement by resource managers that a co-management agreement will not prejudice Aboriginal negotiations on other matters, including self-government. If such were not the case, it is unlikely that First Nations would have an interest in negotiating co-management agreements.

The need for clarity in articulating these principles is paramount to the success of the co-management structure. In order to reduce future conflict and minimize uncertainty and confusion, most agreements contain a section that defines specific terms. The principles in co-management agreements not only outline the spirit and intent within which the agreement was reached but, more importantly, they offer a "guide for interpretation of subsequent sections of the agreement" (Swerdfager 1992:8).

2.2.3 Objectives

There are three primary common objectives of co-management: 1) devolution and decentralization of wildlife management systems, 2) incorporation of traditional environmental knowledge in the state management system, and 3) capacity building and economic development (education, training and employment in resource-based jobs) (Usher 1987; Feit 1988; Pinkerton 1989; Dale 1989; Freeman 1989; Swerdfager 1992; Witty 1994, Notzke 1994, NRTEE 1998).

The first two of the three objectives enjoy a symbiotic relationship. The devolution and decentralization of wildlife management systems is the premise around which many co-management agreements are structured. Co-management with First Nations, whether it is through the comprehensive claims regimes or other models, is motivated by a desire to develop acceptable wildlife management systems and to conserve wildlife. Without First Nations' involvement and, specifically self-regulation, which includes acknowledgement and acceptance of traditional ecological knowledge, the state would stand a limited chance of success in this endeavor (Usher 1991).

Capacity building, in some respects, stands apart from the two other co-management objectives, but it is integral to the co-management system. The objective of capacity building is to "...improve not only the quality of decision-making, but also the sectoral efficiency of management performance in planning and implementation. It does not seek to resolve problems, but instead seeks to develop the capacity within people, communities, governments, and other organizations to resolve their own problems" (NRTEE 1998:29). The issue of capacity building will be addressed in conjunction with economic development where implementation considerations of co-management agreements are discussed.

2.2.4 Decision-Making Authority

This section deals with the level of decision-making conferred on the co-management body. The level of decision-making authority is central to the notion of co-management, particularly as it relates to the devolution and decentralizing process (Berkes et al. 1991). Co-management is often viewed as a public involvement continuum model. Over thirty years ago Arnstein (1969) developed a "ladder" or continuum of public participation based on citizen power. To focus discussion on the decision-making authority of co-management boards, Berkes et al. (1991) developed a modified version of Arnstein's ladder of citizen participation. This model uses a hierarchy that ranges from lower forms of participation in decision-making or "degrees of tokenism" at the bottom of the scale, to full partnership in decision-making or power-sharing at the top. The seven levels of this modified hierarchy from lowest to highest are:

1. Information	one way communication, using technical jargon.
2. Consultation	solicit the views of users face to face.
3. Cooperation	low-level integration with government direction – usually some consideration of traditional knowledge.
4. Communication	meaningful dialogue. Local research agenda but government retains decision-making authority.

5.	Advisory Committee	partnership in decision-making starts but committees are advisory only.
6.	Management Boards	local users are involved in policy-making, and represent a higher level if they are more than advisory.
7.	Joint Decision-making	partnership of equals or community control. Local level management with only necessary government regulation.

(paraphrased from Notzke 1994:154-155)

Co-management situations considered highly developed include advisory committees or Boards (Berkes et al. 1991). These bodies, which have explicit ties to the local communities (some stronger than others), are involved in decision-making – usually regarding the setting of wildlife quotas and harvest strategies. When recommendations are developed, they are forwarded to the Ministers responsible for their approval. Some agreements such as the Inuvialuit Final Agreement, the Gwich'in Land Claim Agreement and Porcupine Caribou Management Agreement, include a requirement for the appropriate Minister to respond to the recommendations of the Board in writing. Further, these agreements require the Minister to provide justification to the Board when the Minister disagrees with the recommendations.

Even though recommendations made by management or advisory Boards are only advisory in nature, they are given every consideration by the state. Regarding the northern co-management regimes where First Nations and Inuit populations comprise the majority of voters, to ignore Board recommendations could amount to political suicide. In some cases, senior managers recognize the political advantage of using these bodies, particularly in the face of unpopular or difficult decisions (Usher 1993). The Beverly-Qamanirjuaq Board, for example, has an influence on resource development activities and avoids unreasonable political and economic costs (Osherenko 1988a).

The fact that there is a perceived disparity between the type of power sharing implicit in the comprehensive claims co-management regimes and the provincial co-management agreements is cause for concern. Campbell suggests that comprehensive claims co-management regimes are clear about "who has rights and access to land and resources surrounding Aboriginal communities. First Nations in the Territories have a legally defined place at the negotiating table to develop, implement, and institutionalize co-management structures, which in turn, gives them a clear voice in the process of resource management and development" (Campbell 1996:4). This comment seems to imply that because there is a clear and legal articulation of First Nations rights, that land claims co-management regimes translate into joint decision-making authority at the top of Berkes' hierarchy.

However, close inspection of federal co-management regimes reveals that full decision-making authority has not been conferred in any case; ultimate authority remains with government (RCAP 1997; Murray 1995). The only *limited* exception is the James Bay Northern Quebec Agreement of 1975. In this agreement, there is a provision for the Hunting, Fishing and Trapping Coordinating Committee to have final decision-making authority in setting the upper limit for caribou, moose and black bear kills. The role of the committee, in all other matters, is strictly advisory; the Minister is the final decision-maker.

The provincial agreements are no different, yet Campbell is highly critical of them because they do not confer a "substantial transfer of decision-making power" (1996:6). This would be analogous to the provincial government demanding joint decision-making authority on First Nations' reserves. To transfer decision-making authority to a co-management body would subvert the democratic process. Brenneis is clear on this point: "If the decision-making authority is transferred to an unaccountable member of the public or public group, such as an unelected interest group, then the public participation process decreases the accountability of the decision-making process and, in fact, may undermine the democratic system" (1990:35). In reality, most co-management regimes "share power and responsibility

for managing renewable resources together **without relinquishing or transferring legal jurisdiction**" (Murray 1995:35, emphasis is mine).

This perception of the disparity in decision-making authority between federal and provincial co-management types is disconcerting, because apart from being erroneous, it may prevent First Nations from pursuing provincial co-management agreements. Further, it may raise false expectations in the eyes of First Nations and others about what can realistically be achieved through such arrangements.

2.2.5 Implementation Procedures

In a review of community wildlife management agreements, Swerdfager observed that "the means by which the provisions of the agreement will be implemented have received scant attention.... The general tendency...appears to have been to figure out what should be in the agreement and to worry about how to implement it later" (1992:13). The outcome has been uncertainty and delay in implementing the agreements. While some of the blame can be placed on the "growing pains" experienced in the development of new organizations, part of the reason is "the absence of clearly assigned responsibilities and procedures for implementing specific provisions" (Swerdfager 1992:13). The National Round Table on the Environment and Economy (NRTEE), in an examination of 21 case studies, has advanced similar findings: "...the most effective institutional arrangements are those created out of the co-management agreement, especially when specific roles and responsibilities related to the implementation are assigned" (1998:25). A set of four specific issues needs to be addressed under implementation procedures: membership, decision-making authority, dispute resolution, and monitoring and evaluation.

2.2.5.1 Membership

This subsection addresses the make-up of the co-management group, including its structure (i.e., Board, Steering Committee, other), authority of members, balance of

power, and size. There is a critical need to clarify the membership and roles for all parties.

Typically, the co-management structure outlines the development of a "Board" or "Steering Committee" that will oversee implementation of the co-management arrangement. The membership of these bodies is usually balanced between First Nations representatives and government officials, although this is not always the case. For instance, the Beverly-Qaminirjuaq Caribou Management Board membership is weighted in favour of First Nations representatives, yet decision-making has not been impaired (Osherenko 1988b). What is fundamental is the creation of an environment "where all parties can participate on an equal footing during deliberations" (Swerdfager 1992:10).

Thus an important enabling condition of a fair balance of power within the co-management institution rests on the accountability of its members. These members need to be accountable to those they represent (Murray 1995). Further, Board members should have similar levels of authority in representing their constituents. It becomes very problematic when members have a different level of authority within their respective organizations and can lead to frustration and delays in Board decision-making – particularly when one party is prepared to make a decision and the other must first seek a higher level of approval.

Decision-making within most co-management bodies is usually by consensus; however, there are some that contain provisions for voting when consensus cannot be reached (Murray 1995). Clifford defines consensus building as a process "in which all those who have a stake in the outcome to a problem's solution aim to reach agreement on actions that resolve or advance issues" (1994:45). A decision is reached when all those involved, while they may not wholeheartedly agree with all aspects of the agreement, are nonetheless able to live with the decision.

The number of parties to the agreement and to the management structures varies considerably. It has been suggested that the most successful documentation of co-

management has been in situations that included only two stakeholder groups (i.e., the government and the Aboriginal community) (Murray 1995). The James Bay Hunting, Fishing and Trapping Coordinating Committee comprises 16 representatives. Ironically, that committee is criticized for being "large and cumbersome", while also being criticized for not being representative (Berkes 1989).

2.2.5.2 Administration and Funding

Many co-management Boards rely exclusively on the provision of federal funding. Comprehensive claims co-management regimes are highly subsidized, with the federal government providing thousands of dollars for administering the agreements. For example, the federal government covers remuneration and travel for Board members, research budgets, costs of hearings and meetings, and the cost of operating and maintaining an office, including staff, for some agreements (The Teslin Tlingit Council Self Government Agreement 1993).

Generally, co-management agreements in the provinces focus on capacity building. As such, there needs to be a..."willingness by the community to assume some of the costs of management, at least in-kind..." (Pinkerton 1993:2). This point assumes that First Nations communities contributing to the co-management effort will foster greater involvement and thus ownership of the process, thus building skills. However, the approach to funding varies across provincial co-management regimes. The province of Manitoba maintains that parties to the agreements cover their own cost of participation and contribute to activities of co-management Boards. Funding is, however, available to "develop strategies, land use plans, resource management plans, per diem travel expenses, data collection and harvest monitoring" (Murray 1995:27). Similarly, in Ontario, funds are provided for First Nations engaged in co-management activities. Some First Nations are "economically disadvantaged due to location or limited resources, and a lack of funds may severely limit co-management initiatives" (Murray 1995:27).

Berkes (1989) identifies concerns of limited funds to support both administration and research initiatives in his review of the James Bay Agreement. Similarly, in a review of the Beverly-Qamanirjuaq Board, Osherenko (1988b) suggests that adequate funds are necessary to administer the agreement and remunerate trapper/hunter organizations to ensure their participation. The state "must ensure they possess sufficient resources to carry out the activities assigned to them in the agreements" (Swerdfager 1992:20). It seems obvious that without an adequate level of support in the way of funding and resources, co-management Boards will struggle.

What is the cost of co-management? In some cases, resource managers have suggested that the costs of implementing a co-management regime have far outweighed the cost of the regulatory regime, but the co-management costs included "the transition costs of capacity building and program design" (NRTEE 1998:31). Alternatively, there is a suggestion that co-management regimes may offer some reduction in public costs. Cost efficiencies can be achieved through a shared research agenda for example (Rettig et al. 1989). In addition, shared management often translates into greater local acceptance of the regulatory regime, which can reduce the cost of enforcement (ibid.). The most significant cost savings will only be realized when Aboriginal and treaty rights are clearly defined in law and are no longer ambiguous and subject to major challenge (ibid.). Rettig et al. note that "in an increasing number of cases, the move to substitute negotiation processes for court fights is a recognition of the costs to all parties of not negotiating" (1989:279).

2.2.5.3 Dispute Resolution

Dispute resolution mechanisms are not always built into co-management regimes. For Boards in the Territories and elsewhere, voting is a common practice, although the preferred means of decision-making is through consensus. The agreement should be clear on what mechanism is used for dispute resolution.

In Manitoba, if an agreement cannot be reached, it is the party with jurisdiction that renders the decision. In other provinces, an outside facilitator or a mutually

acceptable arbitrator may be appointed (Murray 1995). In Washington, this approach was adopted with the appointment of "a 'Special Master' (a federal magistrate who hears cases and makes recommendations to the judge holding the case) and a Technical Advisor to resolve future controversies" (Cohen 1989:41). Of course, the Courts are the final arbiters and that, in many cases, is what the co-management arrangement is attempting to avoid.

An additional dispute resolution option available that moves the issue outside the formal co-management mechanism is civil disobedience. This, however, is not considered a favourable option because it can potentially alienate support from Aboriginal communities (Gibson 1996), thereby damaging the co-management relationship permanently.

2.2.5.4 Monitoring and Evaluation

Boards in Manitoba, Northwest Territories and Ontario develop annual management plans. Since most of the agreements deal with wildlife management issues, many of them have associated wildlife harvest studies, in some cases through a permitting system.

In Manitoba, the enforcement of regulations was noted as perhaps being the "single greatest weakness of the co-management Boards... As an example, everyone on the Nelson River Sturgeon Board agreed the river should be closed except for a limited Aboriginal ceremonial catch but Aboriginal members would not endorse an enforcement campaign, even after it was evident that voluntary restraint was not working" (Murray 1995:14). In more extreme situations, such as the Alaska Eskimo Whaling Commission (AEWC), the Board may be empowered to take punitive action. Here the AEWC "enforce the regulations by denying to those who violate the regulations the right to participate in the bowhead hunt, by exacting fines, and by acting as an enforcement agency for any government entity authorized to enforce the regulations" (Freeman 1989:145).

A key issue in this area of study is the lack of evaluative information available on co-management regimes. The longest standing co-management institution is the one developed in association with the James Bay Agreement, soon to be 25 years old. Most co-management agreements, however, are in the formative stages of development. This simply means that more time is needed before they can be evaluated thoroughly and fairly.

Coupled with the need for additional time to elapse prior to accurately or fairly evaluating co-management institutions are the difficult decisions that must be made about what variables to measure through the evaluation. There are, for example, tangible elements of co-management that are easily measured, such as changes in employment rates, increases in education levels, increased numbers of contractors on reserve, and so forth. There are also, however, a cacophony of non-tangible elements of co-management institutions that are more difficult to measure and assess, such as crises that were avoided. Certainly, a measure of strictly qualitative variables may not paint a complete or accurate picture of the success or lack thereof of a co-management regime.

2.3 Implementation Considerations of Co-management Agreements

One of the keys to implementing a co-management regime successfully lies in the supporting institution. The "co-management system will only be as good as the institution – the council, Board or agency – charged with implementation" (NRTEE 1998:25). This section examines five critical areas that should be considered when implementing a co-management agreement. The first area includes commitment to the process. The second area of consideration, likely the most crucial, falls under the umbrella of communication. The third area of focus is incorporation of traditional ecological knowledge (TEK). The fourth focal area is economic development and creating community capacity. The fifth area deals with public and third-party involvement in co-management.

2.3.1 Commitment

Successful co-management relies not only on political commitment but also "rests on the relationships among human actors which are nurtured by the formal institutions and informal arrangements" (Pinkerton 1989:29). The attitudes of key individuals[8] can determine the success or failure of cooperative management (Cohen 1989; Busiahn 1989). In a dialogue about social learning (Rein and Schöen 1986:1), in the context of "stubborn policy controversies that tend to be enduring", learning and failing to learn are described in terms of changes and differences in the mental frames held by participants in these controversies" (Dale 1989:62). Resolution requires a "frame-shift". Where this occurs in organizations, it could be called a "cultural shift".

Scholars who have written about the concept of "social learning" consider uncontrollable changes in context to be of paramount importance. On this notion, Lindbloom and Cohen write: "the common opinion 'things will have to get worse before they get better' testifies to the possibility that a problem cannot be solved until people have had – or suffered – such experiences as will bring them new attitudes and political dispositions" (1979:19). This seems be a fundamental truth when co-management institutions are assembled. The hope for change resides in effective communication.

2.3.2 Communication

In a survey of Canadian agencies involved in environmental and resource management, only two (Natural Resources Canada and the Northwest Territories) were satisfied with their current level of interaction with Aboriginal people (Murray 1995). The other 10 agencies indicated that their interactions with Aboriginal people either needed improvement or were unsatisfactory (ibid.). While there may be a

[8] Some managers, unfortunately, suffer from "Kennewick-Man syndrome", an affliction brought on by the hope that archaeological evidence will prove that the first inhabitants of North America were actually Caucasian (and other races), that all First Nations will be treated like "other immigrants", and that complex issues of Aboriginal rights and Aboriginal title will disappear.

multitude of reasons, communication stands among the greatest factors as to why these interactions are not working. Scott identifies five factors that, individually or in combination, contribute to communication failure: the nature and function of language, deliberate misrepresentation or filtering, organizational size and complexity, lack of acceptance, and failure to understand (1967:301). I believe that these factors apply as much today as they did over 30 years ago.

Communication is the glue that binds the co-management process. According to Graham et al. (1997:15), effective dialogue appears to have three essential characteristics:

1) commensurate participation by all those affected by decisions;

2) a process for sustained discussion, recognizing different starting points and preferences in style of communication among those involved; and

3) evolution toward a common vision of what is to be discussed, based on frank exchanges.

While these conditions have rarely existed for Aboriginal people in Canada (ibid.), the co-management process seems ideally suited as a vehicle where these conditions should persist. This section will examine issues related to informal and formal communication as part of the co-management process.

2.3.2.1 Formal Communication

Formal communication is considered that which occurs through written correspondence or through formal meetings. Meetings are a core function of implementing co-management regimes – the chief vehicle through which formal discussion occurs. There are some factors that are worth considering when functioning in this cross-cultural environment. In matters of policy development, state managers need to be aware that the modus operandi of First Nations is likely to

be different from their own. Graham et al. (1997:18), in discussing public policy and Aboriginal peoples, suggest that participation by individual Aboriginal people or Aboriginal groups representing their communities in formal meetings is guided by the following:

1) No single voice	Basically, "there is not and never has been a single Aboriginal voice or a single organization or individual with the capacity or the mandate to represent all Aboriginal people in Canada."
2) Basis for common cause	While there is no "single Aboriginal perspective, there is certainly a basis for common cause and political action".
3) Accountability	Questions to what extent First Nations people are representative and accountable to their communities.

It is important to realize that contributions are from an individual perspective and "in most cases individuals cannot be understood to speak for the status group or nation to which they belong" (Graham et al. 1997:19). Morgan (1993) asserts that "Board members from caribou-range communities return home and talk with local elders and others first before bringing those viewpoints back to the next Beverly-Qamanirjuaq Caribou Management Board meeting for the final decision" (Beverly-Qamanirjuaq Caribou Management Board 1999). Aboriginal people place a high priority on ensuring they are representing the communal interest (Graham et al. 1997; Morgan 1993).

However, the issue of accountability is not exclusive to First Nations participation in policy discussions. Graham et al. concede the perspectives of non-Aboriginal participants: "are equally individual and equally likely to be idiosyncratic rather than reflective of the majority view or consensus" (1997:19). It is important that government representatives sitting on the co-management Board ensure effective

internal communication with their colleagues and superiors (Morgan 1993). Therefore, it is necessary for both key parties to the co-management process to ensure the appropriate checks and balances are built into the policy process, including opportunities for political and community review.

Regular attendance at meetings and consistency of membership are both important when trying to develop rapport among members. This is particularly critical at the formative stages of developing the co-management body. There has been longevity of membership and regular attendance at meetings of the Beverly-Qamanirjuak Board, which has assisted in creating continuity of dialogue within the Board (Usher 1993).

The need for clearly written communication and a formal record of decisions and agreements is also an important feature of co-management. An accurate record of decisions is beneficial to all parties in co-management, because it ensures that commitments made are recorded and subsequently honoured. Clear documentation will also prove invaluable, in the unfortunate event that the co-management regime is unsuccessful and the parties move to litigation.

Although the meetings constitute a "formal" component of the co-management regimes, the meetings themselves should be managed in an informal way. Caution must be exercised to ensure that rigidity and structure in meetings, mimicking western bureaucratic processes, does not subvert the co-management effort. The James Bay Hunting, Fishing and Trapping Coordinating Committee, for example, has been criticized for the "disadvantage of being a white man's institution run by white man's rule. This effectively prevents the traditional fishermen-hunters from participating, and limits representation to articulate, southern educated people who are comfortable in committee settings" (Berkes 1989:195).

An additional criticism leveled at the Beverly-Qamanirjuaq Caribou Management Board was that the use of English as the Board's working language limited effective communication (Osherenko 1988b). The differences in language can lead to

misunderstandings that inhibit effective management or, worse, open conflict (Gibson 1996). The use of interpreters can help bridge these communication gaps, but there are no techniques as effective as patience, tolerance and acceptance.

2.3.2.2 Informal Communication

By considering two epistemologies, and examining the well-documented history of wrongdoing in the federal treatment of First Nations, a clear picture begins to emerge of the difficulties each side faces in working together. Indeed, the history of First Nations/government relations has often involved a level of mistrust. The legacy of the past has not augured well in supporting co-management efforts today. From the Aboriginal perspective:

> The history of relations with the Government has left a substantial residue of suspicion and distrust built on a century or more of unfair, unjust and oppressive government actions. It is not difficult to understand why there remains today a deep mistrust of the Government when dealing with new treaties. Past relationships are still part of the reason for the adversarial approach that appears to exist. (Hamilton 1995:12).

Allan Wolf Leg, in his address to the conference "Focusing Our Resources", 1995, concludes that the key to successful co-management is for governments and corporations to take steps to live the experience of native people; that is, "to walk a mile in their moccasins":

> Too many government and corporate people remain indifferent to the experience of the Indian people as they reside comfortably in the privileged halls of governmental, professional and executive life. By too often refusing to live the experiences of the Indian people, they threaten to undermine what makes Canada a glorious country (Wolf Leg 1995:11).

The following excerpt from the Beverly-Qamanirjuaq Caribou Management Board website is a testament to the power of co-management as a mechanism to overcome mistrust: "Of all the strides made throughout the Board's history, none is more important than the improved level of trust and repect (sic) among different aboriginal and government groups that these meetings have fostered. Before, relations were

uneasy as different cultures and knowledge systems collided. But both sides have made tremendous efforts to find common ground, in order to conserve caribou for the use of future generations" (Beverly-Qamanirjuaq Caribou Management Board 1999). These gains in trust and respect did not come overnight – the Beverly-Qamanirjuaq Caribou Management Board has been in existence for 18 years.

Notwithstanding all of these problems, the formal meetings of the co-management institutions offer many opportunities for informal discussion and building friendships. The significance of "structuring" time for informal conversation and long-term relationship building cannot be overstated. As much or more can be accomplished by going for a cup of coffee, than by scheduling a "formal" meeting.

First Nations have a holistic view[9] of the world that can be characterized by the Cree words "Sagow Pematosowin", meaning "life as a whole". This world-view requires a need for more balanced, sustainable forest activities, irrespective of jurisdictional boundaries (Aboriginal Working Group of the Alberta Forest Conservation Strategy 1995). The concept both refers to and recognizes the interrelationships among humans and the natural and spiritual worlds and is embodied in traditional ecological knowledge.

2.3.3 Incorporation of Traditional Ecological Knowledge

Co-management is an "opportunity to move management closer to the people, and specifically, to harness the talents and experience of stakeholders..." (NRTEE 1998:ix). The talents and experiences of First Nations communities are an expression of traditional ecological knowledge (TEK). TEK is defined as: "the accumulated knowledge and understanding of the place of human beings in relation to the world, in both an ecological and spiritual sense" (Hobson 1992:2). TEK is recognized as a significant component of most co-management agreements in Canada. The status of TEK was further elevated by Canada's signature to the

[9] For some insights into Aboriginal culture, see Hugh Brody 1988, *Maps and Dreams*, and Rupert Ross 1992, *Dancing with a Ghost*.

Convention on Biological Diversity, specifically Article 8j[10]. Territorial governments in particular, recognize that state wildlife management systems cannot operate effectively with the exclusion of Aboriginal users. Not only are human resources limited, but so too are resource data on many northern species. Subsistence trappers and hunters often possess a wealth of knowledge on wildlife and wildlife habitat.

Another issue linked to TEK deals with the ability of resource managers to conduct effective wildlife management research (including subsistence harvesting surveys) in Aboriginal communities. Usher points out the natural resistance of Aboriginals to research in northern Canada;

> ...they have generally refused to cooperate with land use or harvest studies initiated by agencies which they believe are responsible for placing their resources and way of life under attack, and instead have insisted on studies under their own sponsorship (Usher 1991:9).

In addition, First Nations believe that information gathered through cooperation in subsistence harvest surveys will be used to their disadvantage (Brody 1988). When research does occur, First Nation involvement in the design of the program is also critical from the standpoint of eliminating "Kabloona" bias.

The decision of the Supreme Court in *Sparrow* has provided an added challenge for state wildlife managers. The *Sparrow*[11] (1990) decision has made it clear that after conservation needs have been met, Aboriginal people have the first right to harvest wildlife for domestic and ceremonial purposes, followed by sport/recreational and commercial licencing. In effect, this has created a three-tiered resource allocation regime (Haugh 1994). This framework has challenged the assumption that the state is

---

[10] Article 8j of the Convention on Biological Diversity states: "Each contracting Party shall, as far as possible and appropriate... Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices..." (United Nations 1992:8).

[11] See Chapter 4.

the unquestioned authority in setting harvest regulations. The state must now "recognize that regulations relating to First Nations 'domestic' harvesting activities...may be valid only if they can be reasonably justified as necessary for conservation purposes" (Haugh 1994:29). Without the cooperation of First Nations to specifically engage in self-regulatory behaviour, conservation objectives will be difficult to achieve. Osherenko states the case for incorporation of TEK in state wildlife management:

> Neither the indigenous system nor the state system alone can protect northern wildlife and ecosystems, much less generate efficient and equitable wildlife management. Government agencies cannot implement and enforce their regulations without native cooperation, and natives cannot protect the resource and guarantee access to those resources without cooperation of government agencies (Osherenko 1988c:41).

Usher confirms this view:

> The positive approach for governments would be to give recognition and force to aboriginal systems of tenure, management, harvesting, and utilization, by entering into co-management or self-government arrangements. The alternative is to engage in long and costly skirmishes in court, which aboriginal people would appear to have a good chance of winning, on the facts (Usher 1991:21).

The validity of TEK has been the subject of an historical and ongoing polemical debate. Hardin's (1969) *Tragedy of the Commons* and MacPherson's (1981) *Commentary: Wildlife Conservation and Canada's North* fostered the entrenchment of state wildlife management systems that did not recognize the legitimacy of traditional ecological knowledge and called into question the ability of local communities to engage in self-regulatory behaviour (Berkes et al, 1991). The works of people like Freeman (1985), Feit (1986, 1988), Berkes (1981, 1987, 1988, 1989), and Usher (1987) contradict those arguments.

Usher, for example, criticizes governments for their reluctance to acknowledge: "...that Native harvesters' culture and experience provide them with the tools to integrate and organize those data into an effective management strategy" (1987:9).

The Beverly Qaminirjuaq Caribou Management Board is an often-cited example where TEK information proved to be more reliable than state-generated caribou survey data. State wildlife managers, who believed that both the Beverly and Qamanirjuaq barren ground caribou herds had diminished to the point that annual harvests would exceed natural recruitment, developed the Board out of a perceived crisis. As it turned out, and "as native users had claimed from the start, low populations at the southern end of the winter range did not indicate precipitous declines in total herd sizes..." (Osherenko 1988b:8).

Experiences in Manitoba illustrate that incorporating TEK is not in itself a guarantee of Aboriginal self-regulation (Haugh 1994). The positive experiences in considering TEK within state wildlife management regimes seem to outweigh the negative by far. To suggest that co-management could not function in the absence of TEK would merely be stating the obvious.

Usher fears that the strategies for incorporating TEK will not result in a blended or modified wildlife management regime, but rather a system in "which Native harvesters merely provide data, and the state system continues to do the managing, and allocation" (Usher 1986:73). In this sense, co-management becomes little more than "co-optation and domination" (Feit 1988).

2.3.4 Economic Development/Capacity Building

Co-management is cross-sectoral or interdisciplinary in that it can be an effective resource management model, while providing a foundation for community development. Co-management can facilitate community development because it creates a formal resource co-stewardship process and because of the economic benefits it affords (Witty 1994). But before discussing the merits of co-management as a stimulant to economic development, I wish to focus on a topic that requires further discussion: the potential negative impacts of economic development on First Nations.

There is an attitude that the best treatment for First Nations communities is to move them fully into the modern wage economy. The modern economy is thought of as being where development takes place, while the traditional economy is believed to be stagnant and not experiencing the "benefit" of development (Watkins 1977). Proponents of this position believe that the solution lies in moving people out of the traditional economy and into the modern (wage) economy. Theory implies that what we want to create is a one-sector modern economy with everybody experiencing the benefit of development.

There should be no illusion about the continuing importance of the "traditional" economy, and that the movement of First Nations into a wage economy will lessen their interest in the traditional economy. The vision of northern people for northern economic development..."rejects the idea that a stable northern economy can be based on an ever expanding nonrenewable resource development strategy..." (Ferguson and Burke 1992:197). Wild game is the foundation of the traditional economy; it is often preferred to domestic animals and it forms the nutritional basis of health and well-being for First Nations (Usher 1991). The significance of wildlife to northern communities is clear; it is their lifeline, not only from an economic perspective but also on the cultural and spiritual levels. Co-management agreements can provide a degree of security by providing Aboriginal communities some measure of control in managing the resources on which they depend (Usher 1987). Hunting, fishing and trapping continues to be a mainstay in many First Nations communities – even those reserves where "traditional life" is considered to have given way to a modern wage economy (Brody 1988). Moreover, Brody argues that: "Living off the land in general, or by trapping, or fishing in particular, is associated with poverty; but a shift away from such harvesting creates the conditions for poverty" (1988:213).

In addition, there is a concern by First Nations that the onslaught of southern ideologies is resulting in social problems in northern communities (Mulvihill and Jacobs 1991). In their view, one of the enabling conditions for self-reliance of northern communities is "decolonization". Mulvihill and Jacobs suggest..."the

colonization of the mind is an inevitable consequence of uneven power relationships. The northern mind is quickly being overwhelmed with southern values, icons, lifestyles and consumptive habits" (1991:36). They recommend northern communities reject or "unplug" southern culture (ibid.). Watkins (1977) offers a more moderate approach. He suggests that we need to explore ways in which the two-sector economy (modern and traditional) can work harmoniously and flourish. Ferguson and Burke concur: ..." the mixed cash-subsistence economy is valued for the flexibility it offers this generation and future generations; for the opportunity to maintain traditional links with the land; and for the possibilities it offers for sustainable development" (1992:198). Co-management provides such a mechanism, as it has the capability to "restore economic and cultural self-determination" (Pinkerton 1989:26), or at least provide a means through which these ends can be accomplished.

A primary focus of co-management has been to ensure that the local Aboriginal economy, so heavily reliant on wildlife, is maintained and enhanced. In this regard, the James Bay Cree Agreement is noteworthy. Through that agreement, an income security program was developed that provides a guaranteed income to those who adopt and maintain a traditional lifestyle. Research has shown there has been a renewal in traditional bush activities (Kofinas 1993).

Economic development is also created through employment generated by the co-management body and the subsequent resource management research and other activities. Such activities are an excellent means through which to build community capacity, which is a key goal of most co-management regimes (NRTEE 1998; Pinkerton 1993; Kofinas 1993). The United Nations Development Programme describes capacity building as "the sum of the efforts needed to nurture, enhance and utilize the skills and capabilities of people and institutions at all levels – nationally, regionally, and internationally – so that they can better progress toward sustainable development" (NRTEE 1998:29).

The value in capacity building for First Nations is that it is empowering. It provides the opportunity for employment and training where it may not have existed previously. More importantly, however, increased capacity will translate into a more balanced base of power at the negotiating table. More First Nation community capacity will also remove some of the pressure from individuals in the community by being able to delegate work in an effective manner. Overall, increased capacity will improve the quality of decisions and the efficiency of the management performance of the co-management regime (NRTEE 1998), and help move First Nations communities towards self-reliance.

The movement of First Nations towards self-reliance is not without cost. The list of trade-offs can include: "the necessity to contribute more volunteer effort, attend more meetings, grapple with difficult ethical and technical issues, become informed on technical and social issues, and generally to become responsible for achieving a community consensus on basic policy directions" (Pinkerton 1993:2).

Lambrou (1996) has shown that value differences in First Nation communities are cause for concern. Native communities are not homogeneous; they contain a variety of views regarding their relationship with the earth, the use of plants and animals, and the place humans occupy. He notes that: "These differences tend to be exacerbated as outside intrusions occur, thus adding to the breakdown between native solidarity and culture" (Lambrou 1996:8). Ivanitz postulates that the journey towards self-reliance cuts to the soul of First Nations communities: "The older people may have a tremendous difficulty with the fact that harvesting resources results in what they see as damage to the land and habitat. While they want jobs and a healthy lifestyle for their grandchildren, they are faced with the contradiction of the modern industrial economy and what that entails – in a sense, the Elders are coming face to face with modernization and the creation of new forms of dependency" (Ivanitz 1996:135). Notwithstanding, most First Nation communities believe it is a direction they must take (Pinkerton 1993).

2.3.5 Public and Third Party Involvement

Co-management is made more complex because renewable resources have common or public property attributes. Consequently, the needs and concerns of the public must be considered. Public and third party involvement is tied to the co-management principle of inclusiveness. This suggests that opportunities should be made available to all parties that have an interest and a stake in the potential outcomes of co-management (Witty 1994; Clifford 1994). There are two reasons for encouraging and soliciting input from outside stakeholders: 1) acceptance of management recommendations, and 2) consideration of economic opportunities.

Although there are some agreements that contain provisions for involving the public, most do not[12] (Swerdfager 1992). The general public must therefore "rely upon government officials sitting on these bodies to represent their interests (Swerdfager 1992:27). Lack of public involvement could cause a variety of concerns, not the least of which could include the distancing of Board activities from communities and hunter organizations (Osherenko 1988b). In addition, Swerdfager (1992) cautions that the absence of formal third-party input into co-management regimes may inhibit cooperation and reduce management effectiveness. He confirms,

> Indeed, the tempestuous circumstances surrounding the establishment of cooperative fisheries management with Aboriginals in Ontario, Washington and Wisconsin is clear evidence of the negative backlash exclusion of non-aboriginal resource users can generate (Swerdfager 1992:12).

Pinkerton affirms that co-management stands a greater chance of success when "external support can be recruited (universities, non-government scientists, credible organizations), and where external forums of discussion (e.g., technical committees) including more than fishermen and government members can be involved in co-management concerns" (1989:27).

---

[12] The meetings of the Beverly-Qamanirjuaq Caribou Management Board are open to the public.

The involvement of industry in the agreements is also important from the perspective identified above, but more significantly because most of the opportunities for economic development are going to flow from outside the agreements. As capacity building plays a significant role in most co-management regimes (NRTEE 1998), involving industry can be beneficial through sharing technology and information, and providing opportunities for employment and training (Interview Notes, Anonymous).

2.4 Summary

Ideally, co-management "develops new conflict resolution methods" (Pinkerton 1989:43) and, more significantly, "develops a modern resource management capacity before legislation" (Dale 1989:52). But, there are a number of issues that can waylay a co-management regime. A clearly written co-management agreement that provides a detailed goal, principles and implementation procedures can come unglued through the implementation phase. Similarly, a poorly crafted co-management agreement might be salvaged if there is willingness on behalf of the parties to work together. Co-management functions as a system, the whole being no greater than the sum of the parts with the parts inextricably linked. Co-management is viewed as an evolutionary, not static process. The process of implementation is as critical as the co-management product. The product has been viewed by some as the ends, but it is clearly the means through which specific goals can be achieved.

Of the co-management experience, McCay notes that "Fracture points occur everywhere and much of the time, and are probably inherent in a system that brings together people from so many different backgrounds and organizations" (1989:118). Therefore, it is important to establish co-management on a solid footing. Managers need to take the additional time, if necessary, to ensure that the co-management instrument identifies principles, objectives and implementation procedures. A clearly written document will go a long way in avoiding confusion and uncertainty, thus providing firm ground on which to build a relationship. This is particularly important as issues become more contentious and complex.

3.0 Methodology

The focus of this project has been to evaluate the process related to the creation of three Alberta cooperative management agreements and the processes related to implementing them. Too often in the design of policy mechanisms, desired outcomes are placed before the careful design or process to achieve those outcomes (Stroup and Baden 1983). The importance of the actual process cannot be overstated:

> Processes are...critical to producing desired results. Since the economic and political landscape is littered with the wreckage of well-intentioned but disappointing programs, the thoughtful activist cannot ignore the economists' warnings. Government environmental protection programs have not fulfilled their positive promises on the one hand and have led to unanticipated negative consequences on the other.... Enough evidence is now available to suggest that the resulting frustration cannot be eliminated by means of "better" people running them.... More attention should be devoted to the processes that led to the original, undesirable outcome as well as to the processes set in motion when we adopt new programs to solve the problems.
>
> (Johnson 1981:218)

Co-management is considered by some to be the definitive equitable partnership process. My assumption was that both First Nations and the Alberta government are searching for an effective means to work together in natural resource management. I had no personal agenda in making First Nations or government look bad or good – I had no "axe to grind." I simply believed that it was imperative to undertake an evaluation of the Alberta approach to co-management to determine whether provincial and First Nations objectives were being met. Thus, on September 16, 1998, I received approval from the Alberta Department of Environmental Protection to undertake a review of the cooperative management process. Specific objectives of the project included:

- To document the cooperative management process in Alberta and compare it to relevant Canadian examples.

- To examine the extent to which cooperative management has assisted in allowing the First Nations' communities to effectively participate in the local or regional economy.
- To evaluate the relative success or failure of the cooperative management process as a consultation mechanism.
- To identify the procedural elements of cooperative management that need to be modified.

These objectives formed the basis of this evaluation research. "Evaluation research" is generally undertaken after a policy or program has been operating for a pre-set period of time to examine whether goals are being met. Smith and Glass (1987:31) have defined evaluation research as the "process of establishing value judgements based on evidence." The methods of data collection, as the means to gather the necessary evidence, are discussed in the following section.

3.1 Approach to Data Collection

The approach to data collection focused on the field of "interpretive social science". This type of social science research relates to the study of individuals, employing such techniques as "participant observation" and "interviewing" (Neuman 1991). Interpretive social science is also related to "hermeneutics", the theory of meaning through, among other things, "the detailed reading or examination of text, which could refer to a conversation, written words, or pictures" (Neuman 1991:50).

Application of "positive social science" (a type of social science described as more rigid, and empirically focused) was inappropriate for this study because it assumes that people share the same meaning systems (Neuman 1991). This is obviously not the case, as "human beings are qualitatively different" (Neuman 1991:45), whereby they are governed by their experiences and they "perceive, reason and are influenced by emotion" (Stroup and Baden 1983:4). Three data collection methods were used: literature review, participant observation, and semi-structured interviews.

3.1.1 Literature Review

In preparation for the interviews, a literature review was conducted to determine what elements of cooperative management would be explored. The search included the subjects of co-management, joint management, shared management, cooperative management, community development, public participation, consultation, resource management policy, traditional ecological knowledge, risk management, and comprehensive claims settlements. The literature review included CD ROM searches, annotated bibliographies, journals, the internet, as well as gathering information from colleagues. Having worked for the Aboriginal Affairs Unit for four years, I have amassed a considerable personal library of books, articles and conference proceedings. In addition, I also made use of my well-established network of contacts within the Alberta government, the federal government, industry and the Aboriginal community.

3.1.2 Participant Observation

One difficulty with field research rests in the area of reliability, as this type of research tends to be very personal, especially "participant observation" (Babbie 1983). But Babbie also argues that participant observation more than compensates in the area of validity as this form of field research has the capability to "tap a depth of meaning in our concepts…that are generally unavailable to surveys and instruments" (1983:268). Over the past four years my involvement in the Alberta cooperative management process has been what Gold (1969) describes as a "complete participant". In this, the "true identity and purpose of the complete participant in field research are not known to those whom he observes" (Gold 1969:33). In my case, this occurred by default rather than by design. Over the past year, my role has changed to "participant-as-observer", whereby I continued to participate fully in cooperative management activities in my capacity as government employee, but the members involved (government and First Nations) were aware that research was being undertaken.

3.1.3 Semi-structured Interviews

Semi-structured, one-on-one interviews were used to solicit the opinions and attitudes of government and community representatives. In this situation, "the interviewer has a general plan of inquiry but not a specific set of questions that must be asked in particular words and in a particular order" (Babbie 1983:253). Respondents were asked a series of open-ended questions. This approach was particularly useful in that it allowed for in-depth exchanges and follow up with questions for clarification (Spencer 1985; Babbie 1983).

One of the difficulties of this approach, however, lies in analysing the data. Questions to respondents may not always be phrased the same, which may cause respondents to interpret and respond differently. Thus, it becomes challenging to compare across respondents (Spencer 1985). Nevertheless, a semi-structured interview approach was the best option not only because of its flexibility, but also because the use of a standardized interview format is not particularly effective when conducting cross-cultural research (Ivanitz 1996).

I used a non-probability sampling procedure, specifically "purposive" or "judgement" sampling as described by Babbie (1983). The informants were selected based on my knowledge of the population and the subject area. Nine informants were selected: three representatives of the First Nations communities who were party to each of the three cooperative management agreements, and six representatives from the government of Alberta. All informants had prior or current involvement with the three cooperative management agreements in Alberta. I wanted to focus on two levels: the negotiation and the implementation of the cooperative management agreements. The literature review and my experience suggested that it was not necessary to garner information from the political levels. The sample represents parties to the agreements only, and did not include interviews with industry.

Devereux and Hoddinott (1993) are critical of one-on-one interviews because they lack representativeness. However, I was more concerned with eliciting specific

viewpoints on the themes outlined. The questions used to guide the interviews with government staff and with community representatives are included in Appendix A.

All informants were made aware of the nature of the research, how it would be used, and that confidentiality and anonymity would be respected. They were also informed that their participation in the interview process was voluntary. Based on the above, I received informed consent from the informants. The interviews were conducted at leisure and at the convenience of the interviewee, and occurred both in person and over the phone. The duration of the interviews was from one to two hours. In addition, follow-up interviews were conducted where necessary as themes emerged or to clarify previously elicited information.

The use of interpretive social science techniques to evaluate process within a bureaucracy has its own particular set of challenges. Even though such research is generally of benefit to the organization, some managers may view the notion as a threat. The challenge in reviewing public policy lies in the attitudes and suspicions the administrators have of the researcher – particularly when the evaluation may result in the loss of program (budget) staff resources or unacceptable program changes (Finsterbusch and Motz 1980). It is important to note that this research was not initiated at the request of First Nations or Alberta, but was self-initiated. In addition, my need for complete autonomy and independence in presenting research findings was discussed with Alberta before they granted me permission to evaluate the cooperative management process.

Caro describes the difference in views between administrators and researchers. The researchers are "predisposed to see a need for change, whereas administrators are inclined to defend their efforts and maintain the status quo" (Caro 1971:15). Administrators may also consider such evaluations as threatening because results, if unfavourable, may cast aspersions on the administrator's competence. In defence of their position as competent administrators, some "...have an interest...in concealing problems and information that may make them look bad" (Finsterbusch and Motz 1980:135). Based on this possibility, the validity of some responses could be an

issue. I would have been more concerned about the validity of responses if both the subject area and informants had been unfamiliar to me. My involvement in the process with the informants, coupled with an intimate knowledge of negotiations and working meetings, was likely a suitable counter-balance. Moreover, the results of this evaluation are not binding and the state will be under no obligation to implement the recommendations. The approach to methods and data analysis considered the above information.

3.2 Ethical Considerations

Much of the information for this paper is based on experience gained through working for the Alberta Department of Environmental Protection for the past 10 years. Specifically, I have spent the last 4 years dealing with Aboriginal issues in resource management for the department of Environmental Protection.

In that capacity I, and my colleague and supervisor, represent the interests of the Department of Environmental Protection in dealing with Aboriginal peoples on issues at the policy, management and legislative level. We are also involved in matters that are federal/provincial in nature, such as the Convention on Biological Diversity (United Nations 1992), the Canada Forest Accord (National Forest Strategy Steering Committee 1992), and the Canada-Wide Accord on Environmental Harmonization (Canada 1996c). In addition, I was intimately involved in renegotiating the cooperative management agreement with the Little Red River and Tallcree First Nations, I have drafted the implementation plan for the Horse Lake Memorandum of Understanding, and I have attended Whitefish Lake Cooperative Management Agreement Steering Committee and Implementation Committee meetings.

When I initiated this research, I was cognizant that my position with the Alberta Department of Environmental Protection could potentially be considered by the community representatives as a conflict of interest. On this matter, I made it clear that I was undertaking this research in my capacity as a student. I also made it clear

that the University of Alberta Department of Renewable Resources was guiding this project. The Faculty of Agriculture, Forestry, and Home Economics Human Ethics Review Committee accepted my thesis proposal in October, 1998.

When conducting research, the researchers' challenge is to constantly "be on guard against allowing their opinions and beliefs to bias their observations" (Spencer 1985:41). Given the potential for being critical of my employer on the one hand, and being critical of First Nation communities on the other hand, and thereby potentially jeopardizing future working relationships, the need to be cognizant of possible bias was foremost in my mind. I needed to behave in a fair and balanced manner in my observations and in the analysis of the data. As noted by Babbie (1983), sensitivity and awareness may provide an appropriate safeguard against bias.

Brown and Tandon (1983) submit that complete objectivity is virtually impossible since participatory research necessitates the researcher to be ideologically committed to social transformation. In fact, Finsterbusch and Motz argue that due to the emotion evoked by the topic area, "social scientists accomplish very little by trying to work in an atmosphere contrary to their own ideological positions" (1980:5). Himelfarb and Richardson (1982) also agree with the need to embrace and become partisan of specific human values. They note that the social researcher:

> Armed with an explicit ethical position rather than the pretence to value-neutrality...can afford, perhaps is even obligated, to give himself up to the setting of his research. ...By ignoring values and by pretending that we have dealt away with their influence or by ignoring the subjective worlds of those we study, we make ourselves vulnerable to being "cultural dopes" who ask only the conventional questions, or "paternalistic do-gooders" who enter the field thinking we already have the answers (ibid.:48).

Moreover, Guyette suggests that the insider, "through cultural learning, may have an extra degree of training. This inside knowledge can often lead to a more in-depth definition of the research problem" (1983:15). This observation could logically be extended to apply in situations where research is conducted within the researcher's "organizational culture".

3.3 Approach to Data Analysis

The process used to analyze the data was developed by Strauss (1987) and is explained and interpreted by Neuman (1991). The coding methods as discussed by Neuman (1991) proved to be particularly useful. For example, the themes of self-regulation and economic development that emerged under "open coding", developed and emerged into the categories of capacity building, commitment, economic development, and incorporation of traditional ecological knowledge, when the third stage of "selective coding" was completed. The data were searched to determine patterns, recurrent behaviours, themes or differences. In addition, the validity of interview responses was tested using "triangulation" – the process of comparing the responses of informants (Cole 1970). Through triangulation, the data were searched for areas of agreement and disagreement. Participant observation assisted my ability to "sort out the 'testimony' and decide what should be discounted and what should be accepted as valid" (ibid.:194).

Analytical comparison was applied using the techniques of "method of difference" and "method of agreement" pioneered by British philosopher and social thinker John Stuart Mill (1806-1873), as described by Neuman (1991). Additionally, the data were searched for "negative evidence"; that is, information not apparent in the data, such as events that do not occur, events that some of the population wants to hide, the effects of researchers' preconceived notions, and conscious non-reporting (Neuman 1991).

3.4 Summary

The methods described above, the literature review, semi-structured interviews and participant observation form the basis of the data for this research. The next chapter provides key federal and legislative context that, coupled with a survey of the issues in Chapter 2, will help bring the Alberta jurisdictional and policy picture into clearer focus.

4.0 Federal and Legislative Context

This chapter will focus on the key legal events and documents that have influenced and will continue to influence the Alberta government's policy-making process regarding First Nations issues. This succinct review commences with the *Royal Proclamation of 1763* and proceeds through to the recent decision of the Supreme Court in *R v. Delgamuukw* (1997). The discussion of the Supreme Court decisions does not constitute a legal analysis. Rather, it is a layman's view of the decisions and the implications they have on shaping cooperative management in Alberta[13].

4.1 Royal Proclamation 1763

Arguably, the first document that identified the use of lands for Indians in Canada was the *Royal Proclamation of 1763*. King George III proclaimed that lands were to be reserved for Indians as their hunting grounds. Some scholars argue that the *Royal Proclamation* was intended to keep the Indians as allies during times of war and as trading partners during peace time; likely, however, it was more generally to assist in the peaceful settlement of Canada (Hamilton, 1995). According to the *Royal Proclamation*, Indians were not to be disturbed in their use and "quiet" enjoyment of the land. The *Royal Proclamation* also identifies that processes for acquiring land were to be followed by all agents of the Crown, and further, that these processes were to include public meetings and Aboriginal consent.

The *Royal Proclamation* remains an important document today because future treaty making processes (including modern treaty-making) are grounded in its principles (Royal Commission on Aboriginal Peoples 1996).

[13] At this time, the current legal interpretation is that Aboriginal title does not exist in Alberta. Therefore, landmark Supreme Court decisions that focus on the issue of Aboriginal title, such as *Calder v. Attorney General of British Columbia* (1973) and *Guerin v. The Queen* (1984), do not directly apply in the Alberta context and are therefore not discussed.

4.2 The Alberta Treaties

Numerous treaties exist across Canada, all of which have different intentions and interpretations. Many of the eastern treaties are considered to be "friendship" treaties; that is, they focused on European colonizers and the Indians living together peacefully (Hamilton 1995), rather than on the issue of Aboriginal title. Conversely, Treaties 6, 7, and 8, which cover Alberta, are considered by the federal and provincial Crowns to be "extinguishment" treaties. It is their contention that with the signing of the Alberta treaties, Aboriginal title was ceded or surrendered and replaced by treaty rights. This includes rights relating to "traditional land". As such, "traditional lands" are not recognized in Alberta because of the possible implications of ownership, although the Alberta government does recognize traditional uses of land. Treaty rights that are recognized by Alberta include the right to hunt, trap and fish for food on unoccupied Crown lands or on lands to which Indians have a right of access.

First Nations have a different interpretation of the treaties on the matter of extinguishment of rights (for interpretations of Treaty 8, see Leonard 1995, Brody 1988, Madill 1986, Price 1979, Fumoleau 1973, Cardinal 1969, Mair 1908). *Citizens Plus: A Presentation by the Indian Chiefs of Alberta to Right Honourable P.E. Trudeau, Prime Minister, and the Government of Canada* (also referred to as the *Red Paper* released in June 1970 by the Indian Chiefs of Alberta), in response to the *Statement of the Government of Canada on Indian Policy* (the White Paper) in 1969, and *Wahbung - Our Tomorrows* (written by the Manitoba Indian Brotherhood, 1971), both dispute and challenge the legality of the treaties. They contend that only the first six inches of soil "to the depth of a plow" were forfeited. The Little Red River Cree First Nation, for example, suggests the treaties were written as a broad social contract. The true intent of Treaty 8 was not to extinguish title to land, but rather to share resource management between First Nations and "newcomers" to the area (Little Red River Cree First Nation 1991). This belief is supported by the Elders

interviewed by Father Fumoleau:

> They saw the white man's treaty as his way of offering them his help and friendship. They were willing to share their land with him in the manner prescribed by their tradition and culture. The two races could live side by side in the North, embarking on a common future;
>
> (Fumoleau 1973:211)

and echoed by the Fort McKay First Nation:

> Many elders of that era felt and understood the treaties to mean a sharing of the wealth of Mother Earth. The elders had no qualms about that because they believed Mother Earth would be generous and would provide enough for the new inhabitants as well.
>
> (Fort McKay First Nation 1995:3)

First Nations also maintain that "the written treaties are an insufficient representation of the verbal promises made" (Graham et al. 1997:29). A representative of the Little Red River Cree First Nation describes their interpretation:

> Treaty was negotiated in the context of the Crown's fiduciary duty. They had to disclose all of the relevant facts. The Crown knew about the oil and gas, they knew about the minerals, they knew about the water and the forestry, but they did not attempt to discuss its current or future value as a basis for informed consent. Nothing was explained. With the decision of Justice Lamer in *Delgamuukw* where oral history has to be given evidentiary weight, a different interpretation of the Treaties is likely.
>
> (Webb 1999)

Additionally, there is continued interest in First Nations to review the treaties and rewrite them in the modern context. The Royal Commission on Aboriginal Peoples (1996) identifies that the treaties should be modernized. They suggest the formulation of a new "Royal Proclamation" and accompanying legislation that would provide the foundation for a new treaty process. The *Royal Commission on Aboriginal Peoples Report* (1996) calls for the involvement of all governments (both federal and provincial) in the treaty renewal process. However, they also strongly emphasize that unilateral action by the federal government, under the authority of

Section 91 (24)[14] of the Constitution Act, 1867, should be taken if the provinces refuse to cooperate.

On October 15, 1998, the Alberta Grand Council of Treaty 8 First Nations signed a "Declaration of Intent" with the federal government to proceed with a "treaty bilateral process" (Canada 1998). The purpose of the agreement is to discuss their respective understandings of the treaty relationship, treaty rights, and implementation and focus on the inherent right of self-government (Canada 1998). Grand Chief Eddie Tallman confirms:

> Over the last century, our treaty has been interpreted from different perspectives, none of which came from the people of the Treaty 8 First Nations.... It is important that the true spirit and intent of our treaty, is interpreted as it has been told to and understood by our Elders. Only then, will we as First Nations people be able to establish governance institutions and processes that will lead to the development of vibrant communities, viable economies and strong and healthy people (Alberta Native News 1998:5).

Exactly what will become of the "treaty bilateral process" has yet to be determined. It is, however, safe to say that any review of the Treaties will also involve a review of subsequent Natural Resources Transfer Agreements.

4.3 1930 Natural Resource Transfer Agreements

The Natural Resource Transfer Agreement (NRTA) of 1930 formally transferred authority and responsibility for natural resource management to Alberta. The province was required, through the NRTA, to make lands available to meet unfulfilled treaty obligations. This is a legal obligation as per paragraphs 10 of the Alberta Schedule to the Constitution Act, 1930, and the Schedule to the Alberta Natural Resources Act, S.A., 1930 c21, which states:

> All lands included in Indian reserves within the Province, including those selected and surveyed but not yet confirmed, as well as those confirmed, shall continue to be vested in the Crown and administered

[14] Section 91 (24) identifies that Parliament has primary jurisdiction over Indians and lands reserved for Indians.

> by the Government of Canada for the purposes of Canada, and the Province will from time to time, upon the request of the Superintendent General of Indian Affairs, set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said Superintendent General may, in agreement with the appropriate Minister of the Province, select as necessary to enable Canada to fulfil its obligations under the treaties with the Indians of the Province, and such areas shall thereafter be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof;...
>
> (Schedule to the NRTA, 1930:117)

Additionally, the *Natural Resource Transfer Agreement* in paragraph 12 confirms the existence of treaty rights. Paragraph 12 states:

> In order to secure to the Indians of the Province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that the laws respecting game in force in the Province from time to time shall apply to the Indians within the boundaries thereof, provided, however, the said Indians shall have the right, which the Province hereby assures to them, of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access
>
> (NRTA 1930).

Like the Treaties in Alberta, First Nations dispute the authority of the Natural Resource Transfer Agreement. They contend that the transfer of responsibility for resource management to the provinces vis-à-vis the NRTA was done without First Nations' consultation, and therefore was unconstitutional. Alberta, Manitoba and Saskatchewan First Nations have recently launched a lawsuit against the federal government that challenges the legality of the NRTA. The First Nations claim that when Treaty Seven was signed, they did not give up their interest in their traditional territories or resources, but rather agreed to share the land (Howes 1999). The First Nations want the NRTA nullified. The lawsuit is intended to spur the federal and provincial governments into negotiating revenue sharing with First Nations (ibid.).

The final word on the legality of the NRTA has not yet been spoken, but the question of the recognition by Canada of Aboriginal rights is not in doubt.

4.4 1982 Constitution Act

In 1982, the rights of Aboriginal people in Canada were recognized as part of the Constitution of Canada. Section 35.1 identified that "the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed" (Canada 1982a). Accordingly, "Section 35.1 has been construed not merely as a rule of construction, but as providing for the entrenchment of existing Aboriginal and treaty rights" (Bartlett 1991:8). These rights include the right to hunt, fish and trap for food on unoccupied Crown lands or lands to which Aboriginal people have right of access.

The interpretation of Aboriginal and treaty rights by First Nations and the state are divergent and the subject of hostile debate. In many cases, the only palatable solution has been adjudication by the courts. In 1990, the *Regina versus Sparrow* decision went a considerable distance in interpreting Aboriginal rights.

4.5 Regina versus Sparrow

Regina versus Sparrow is a landmark decision of the Supreme Court of Canada involving a Musqueam Indian who was charged with violating federal fishing regulations. The Court ruled that Section 35 of the Constitution provides a strong measure of protection for Aboriginal and treaty rights. Further, Aboriginal rights are capable of evolving over time, and the Crown must interpret them in a generous and liberal manner (Regina v. Sparrow 1990).

There are two key aspects of the judgement that have implications for Alberta. The first aspect is that Aboriginals must be given priority to fish for food over other groups, after fisheries conservation needs have been met. In rendering its decision, the Court observed:

> We acknowledge the fact that the justificatory standard to be met may place a heavy burden on the Crown. However, Government policy with respect to the British Columbia fishery, regardless of s.

> 35(1), already dictates that, in allocating the right to take fish, Indian food fishing is to be given priority over the interests of other user groups. ...The objective is ...to guarantee that (conservation and management plans) treat Aboriginal peoples in a way ensuring that their rights are taken seriously.
>
> (Regina v. *Sparrow* 1990:24)

In 1993, the Supreme Court ruled that the principles applied in *Sparrow* apply to wildlife as well as fish. However, to this point the "Courts have been reluctant to recognize Aboriginal or treaty rights to fish or hunt for commercial purposes" (Imai et al. 1993:27).

The second aspect of the *Sparrow* decision that pertains to Alberta is that constitutionally protected Aboriginal and treaty rights could be infringed; however, the justification test set out must be complied with. The test, in *Sparrow*, states that the infringement must be for a valid objective and must be justifiable. To be justifiable, the following criteria, which are not exhaustive, must be met:

- the honour of the Crown in its dealings with Aboriginal people must be upheld;
- the rights in question should be interfered with as little as possible in the circumstances;
- the legislative scheme should accord the rights holders priority over the interests of other user groups in any allocation scheme;
- if expropriation has occurred, fair compensation should be made available; and
- the Aboriginal group(s) in question should be consulted.

(Regina v. *Sparrow* 1990)

The *Sparrow* case can add another notch to its already landmark status. The term "duty to consult" is now ensconced as part of the natural resource management vernacular. While the Courts have not provided a legal definition of consultation, "meaningful" and "effective" are words the Court has used to describe their intent. *Sparrow* has set the groundwork for further legal challenges dealing with the issue of "consultation", such as that involving the Halfway River First Nation of British Columbia.

4.6 Halfway River First Nation v. British Columbia

Halfway River First Nation v. British Columbia (1997) was not about pre-treaty or extra treaty challenges; rather, the focus was on the interpretation of treaty rights (Kwasniak 1998b). The British Columbia Supreme Court found that there was inadequate consultation by the British Columbia Ministry of Forests with Halfway River First Nation in the issuance of a timber permit to Canadian Forests Industries Limited (Canfor). Specifically, the Court charged that the district manager made an unreasonable decision because he decided there was no infringement of treaty or Aboriginal rights without having information from the Halfway River First Nation. Inadequate consultation affected the district manager's "duty of fairness and Halfway's right to be heard " (1997, 4 CNLR 45 [BCSC]). As such, the timber permit issued to Canfor was cancelled.

Following *Sparrow*, the Court rejected "pursuit of the public interest as a legitimate objective to justify *prima facie* (before investigation) infringement, and found that mere enhancement of the British Columbia economy would not suffice" (Kwasniak 1998b:2). On the issue of the Crown's "duty to consult", the Court made the following generalized points:

- "The Crown must consult prior to making any decision that may affect treaty or Aboriginal rights,
- The Crown must make all reasonable efforts to consult and must fully inform itself of relevant Aboriginal and treaty rights as well as on the impact of the proposed decision, and
- The Crown must provide the First Nation with information relevant to the proposed decision".

(Kwasniak 1998b:10)

What makes this case significant to Alberta is that it is within the Treaty 8 tribal area, which covers almost all of northern Alberta. It also raises important issues around the obligations of the Crown to consult with First Nations during the disposal of

Crown land and resources. In disposing of provincial Crown land, as a result of the *Halfway* ruling, Kwasniak provides the following counsel:

> ...a cautious Crown would advise itself of traditional uses on off-reserve public land made by any Alberta First Nation. The Crown would consult with any potentially affected First Nation when the Crown is considering a public land disposition in an off-reserve traditional use area, whether the disposition be related to logging, grazing, oil and gas, water, mining, etc.
>
> (1998b:10)

The above passage underscores the prominent role of consultation in resource management decision-making. This role was strengthened with the decision of the Supreme Court of Canada in *Delgamuukw v. British Columbia* (1997).

4.7 Delgamuukw v. British Columbia

The decision in *Delgamuukw v. British Columbia* (1997) has probably done more to motivate provincial governments towards the development of consultation policies than any previous decision of the Supreme Court. The Court emphasized that the Crown maintains a "duty to consult" with the affected Aboriginal people to assess the "interest at stake". The aspect of the judgement potentially affecting Alberta deals with the infringement of rights. Similar to the *Sparrow* decision, the Court determined that an infringement could occur provided two justification tests were met: (1) "the infringement must further a compelling legislative objective", and (2) "it must be consistent with the special fiduciary relationship between the Crown and Aboriginal peoples" (Kwasniak 1988a:7). The Court also said that examining whether the duty to consult has been discharged is decided case-by-case.

Another key aspect of the decision included: providing a distinction between Aboriginal title and Aboriginal "use rights". Aboriginal "use rights" involve "a right to do certain things in connection with the land" (Kwasniak 1998a:8), where "Aboriginal title" is a "right to the land itself" (ibid. 1998a:8). In addition, the Court

in *Delgamuukw* determined that oral histories can be given evidentiary weight to prove "Aboriginal title" or Aboriginal "use rights".

4.8 Summary

An additional piece of federal policy context that warrants mention is the *Royal Commission on Aboriginal Peoples Final Report* and the federal government response *Gathering Strength*. Established in August 1991, the Royal Commission on Aboriginal Peoples was tasked with a broad range of complex issues, many concerning long-standing matters in the relationship between Aboriginal and non-Aboriginal peoples. The *Royal Commission on Aboriginal Peoples Final Report,* released in 1996, is approximately 3500 pages in length and contains 440 recommendations. To summarize the substance and magnitude of the document and accompanying background papers, would do it an injustice, and, for purposes of this paper, it is unrealistic. Suffice it to say that in the proper context, it will be alluded to throughout this document. The *Royal Commission on Aboriginal Peoples Final Report* and the response by the federal government in *Gathering Strength,* projects a vision for the future based upon the following objectives: renewing partnerships; strengthening Aboriginal governance; developing new fiscal relationships; and supporting strong communities, people and economies (Canada, 1997). Transformation of that vision to reality will be not only be determined by the strength of the relationship between the federal government and First Nations, but also by the strength of the relationship between the federal and provincial governments.

There are numerous factors that have influenced and shaped the current relationship between Alberta and First Nations. It is important to note that the legal landscape within which the relationship persists is malleable, dynamic and subject to recurrent transformation. Until recently in Alberta, the authority of the Treaties in their interpretation of Aboriginal title has not been legally challenged. Alberta is currently awaiting the Athabasca Tribal Council to file a "statement of claim" regarding issues of consultation, notification and infringement of treaty rights. The case (Rio Alto

Exploration Ltd.), if it tracks to the Supreme Court, could be a landmark that settles the argument between First Nations and the state regarding the spirit and intent of Treaty 8. Herein lies the challenge for resource managers: the only constant factor guiding the First Nations/Provincial relationship is change.

Resource managers dealing with First Nations in Alberta can take solace in the fact that when it comes to issues surrounding Aboriginal title and Aboriginal rights, they do not reside in the maelstrom of uncertainty that is British Columbia. In Alberta, the Treaties and the *Natural Resource Transfer Agreement* provide, for the moment, legal certainty. The principal issue facing resource managers in Alberta is the issue of consultation. Cooperative management agreements may form part of the Alberta provincial strategy to meet their obligation to consult with Aboriginal people.

5.0 Alberta Policy Context

Just over 10 years ago, in relation to Alberta's involvement in land claims, James O'Reilly, lawyer for the James Bay Cree during the seventies and the Lubicon Lake Cree First Nation in the eighties, made some unsettling remarks about the attitude of the Alberta government in its dealings with First Nations. He stated:

> It is difficult to characterize Indian–Alberta relations as anything but adversarial, if not actively hostile.... It appears that the Alberta government has no intention of allowing itself to be motivated by equity or propriety. Indians are adversaries to be defeated.... Unless the federal government takes the lead by asserting and implementing its constitutional responsibilities, Indian land claims in Alberta seem destined for an era of confrontation and controversy, with justice exiled into oblivion (O'Reilly 1988:147).

Much has happened in Alberta to improve the relationship between the state and First Nations since these words were written. However, this chapter will focus only on those initiatives that, taken together, chronicle the journey of cooperative management in Alberta.

5.1 Memorandum of Understanding Between Her Majesty the Queen in Right of the Province of Alberta and the Grand Council of Treaty 8 First Nations

On February 10, 1993, a Memorandum of Understanding (MOU) was signed between the Grand Council of Treaty 8 First Nations and the Premier of Alberta (Appendix B). The MOU recognizes:

- the special relationship between First Nations and the federal government;
- traditional and historic rights referred to in section 35.1 of the Constitution Act; and
- existing Aboriginal or treaty rights.

(Alberta – Grand Council of Treaty 8 First Nations 1993a)

The intent of the MOU was to formally acknowledge that Alberta and the Grand Council wished to establish a means of consulting each other on matters involving the development of new and existing policies, programs and services. The Grand

Council and appropriate provincial government Ministers were to determine that process of consultation. In addition, the process was to include both elected and appointed officials.

Subsequent to signing the MOU, the province and Grand Council commenced negotiations on a sub-agreement to the MOU (Appendix C). Those negotiations focused on development of the consultation structure that was to become the "initial process direction" or "working procedures". A Grand Council of Treaty 8 First Nations–Alberta Relations Committee was established under the *Sub-Agreement*. The Committee consisted of the Grand Chief of the Grand Council, the Premier of Alberta, the Chairman of the Treaty 8 First Nations in Alberta, and the Minister of Intergovernmental and Aboriginal Affairs. The Committee was to meet at least twice a year or as required, with a mandate to:

- explore matters such as government-to-government relations;
- identify an agenda of items of mutual interest and concern; and
- review progress of working sub-committees that have been established.

(Alberta – Grand Council of Treaty 8 First Nations 1993b).

During negotiation of the *Sub-Agreement*, proposals for co-management demonstration projects were received from the Little Red River Cree First Nation, the Whitefish Lake First Nation and the Athabasca Tribal Council.

The *Sub-Agreement* on working procedures was signed on December 31, 1993. In the seven years since signing the MOU, the Grand Council of Treaty 8 First Nations–Alberta Relations Committee has not met. Moreover, negotiations were underway to establish an Environmental Protection Working Sub-Committee, but that goal was never realized. Two years after signing the *Memorandum of Understanding between the Province of Alberta and the Grand Council of Treaty 8 First Nations*, an agreement was structured to include all Alberta First Nation Chiefs.

5.2 Understanding on Alberta-First Nations Relations

Twenty-two of forty-five First Nations Chiefs in Alberta signed an *Understanding on Alberta/First Nations Relations* (Appendix D) on November 10, 1994. The primary purpose of this "understanding" was to "action Government-to-Government discussions on issues of mutual interest or concern affecting Treaty First Nations, of which jurisdiction and authority are of paramount importance to the represented Treaty First Nations" (Alberta – Council of Chiefs 1994). The key feature of this document is that it formally recognized, for the first time in Alberta, a "government-to-government" relationship between the province and First Nations. How this relationship is actually defined remains unclear.

The *Understanding on Alberta/First Nations Relations*, while acknowledging the special relationship between First Nations and the federal government, also serves notice that both First Nations and Alberta are concerned about the changing nature of that relationship. The Council of Chiefs and appropriate Ministers will determine the process for discussion of areas of interest and concern. The agreement is not an amendment to an existing treaty, nor is it considered a new treaty. It is an "open" document in that Chiefs who have not yet signed may still do so, and those who have signed may terminate their involvement upon six months written notice.

The *Understanding* is not intended as an operational action-focused document. Rather, it is a political statement: a demonstration of the commitment of the Premier of Alberta and those First Nations Chiefs who signed, to improve their relationship. The specific cooperative management documents, while demonstrating a political commitment to solve issues, focus at the operational level of resource management.

5.3 Cooperative Management Framework Document

The first proposal on co-management in Alberta was developed in conjunction with the land claim negotiation package with the Lubicon Lake Cree First Nation in 1985 (Masiuk 1999). To expedite settlement of the claim, the Premier directed that an

Agreement Respecting Wildlife and Integrated Land Use Management be negotiated with the Band (ibid.). The *Agreement* identified an advisory committee that was to consist of representatives from the First Nation, other communities, the Fish and Game Association, and the Provincial government. As a management responsibility, this advisory committee was to deal with trapline relocation.

The *Agreement Respecting Wildlife and Integrated Land Use Management* did not contain the word "co-management", but rather made reference to a cooperative resource conservation and management approach (ibid.). The *Agreement* received Cabinet and First Nation approval, but has yet to be implemented because the Lubicon Lake Cree First Nation believe that it is an integral part of their overall land claim settlement package which is still under negotiation (ibid.).

Since then, the development of cooperative management agreements has taken an ad hoc approach; first the Whitefish Lake Cooperative Management Agreement in 1994, and then the Little Red River/Tallcree Cooperative Forest Management Agreement in 1995. Therefore, Alberta decided a document was needed which would ensure that a consistent approach is applied in provincial negotiations of cooperative management agreements. In addition, such a document could outline the conditions under which the government of Alberta would enter into cooperative management agreements with First Nations. Developed by an interdepartmental team of government officials, an *Environmental Protection Cooperative Management Framework* document (Appendix E) was reviewed and approved by Ministers in the fall of 1996.

In the *Environmental Protection Cooperative Management Framework,* a cooperative management agreement is described as an agreement between the province and a First Nation or Aboriginal community to establish a process of "consultation and cooperation on renewable resource or environmental matters of mutual interest" (Alberta 1996). Although the matters of mutual interest could include land management, these agreements are not intended as land management tools. The government of Alberta has two primary motives for entering into

cooperative management agreements with First Nations: one, they establish a vehicle for consultation, and two, they create a forum for building partnerships between First Nations and industry, thus facilitating economic development and creating community capacity.

According to provincial officials, cooperative management agreements provide a vehicle for meaningful consultation by working cooperatively with First Nations or Aboriginal communities to achieve resource or environmental management objectives and improve relations. In addition, these agreements are effective in preventing or solving problems before they become major issues. Ideally, they assist in building effective working relationships between First Nations, the Alberta government, and third parties such as industry, while recognizing and respecting existing rights.

Cooperative management agreements can also be useful in assisting First Nations or Aboriginal communities in working towards long-term, meaningful, sustainable employment. They do this by creating the forum in which meetings with industry representatives can occur. Industry and other stakeholders may also be parties to the agreements, providing there is mutual consent.

Simply put, the purpose of cooperative management is to find a way to make things work between the government of Alberta and First Nations. Cooperative management agreements create a policy table that minimizes risk to all parties (Webb 1999).

The *Environmental Protection Cooperative Management Framework* consists of several key principles, including the following:

- Existing rights, jurisdictions, and authorities of First Nations, the Alberta government, and third parties are recognized and respected. Existing rights are not affected in any way, nor are any new rights created.
- The parties operate openly and fairly in the spirit of co-operation, but will retain final decision-making responsibility in their respective areas.

- Other stakeholders may participate in the MOU, subject to the agreement of the First Nation and Alberta.
- A commitment to sustainable development.
- An emphasis on economic opportunities generated by the private sector, and on local benefits from resource development.

(Alberta 1996)

These principles are used as the basis on which to negotiate specific cooperative management agreements with First Nations.

5.4 Summary

Alberta appears to have taken some strides in effecting a positive relationship with First Nations since O'Reilly's (1988) unflattering comments. The development of the *Understanding on Alberta/First Nations Relations* (1994) and the *Memorandum of Understanding between the Province of Alberta and the Grand Council of Treaty 8 First Nations* (1993) appears to demonstrate a political willingness to discuss issues of concern with First Nations. Examination of the three cooperative management agreements in detail will assist in determining whether a similar level of commitment to work together exists at the operational level. A summary of the three Alberta cooperative management agreements, Whitefish Lake Cooperative Management Agreement, Little Red River/Tallcree Forest Management Planning Cooperative Management Agreement, and the Horse Lake Cooperative Management Agreement, follows in Chapter 6.

6.0 Alberta Cooperative Management Agreements

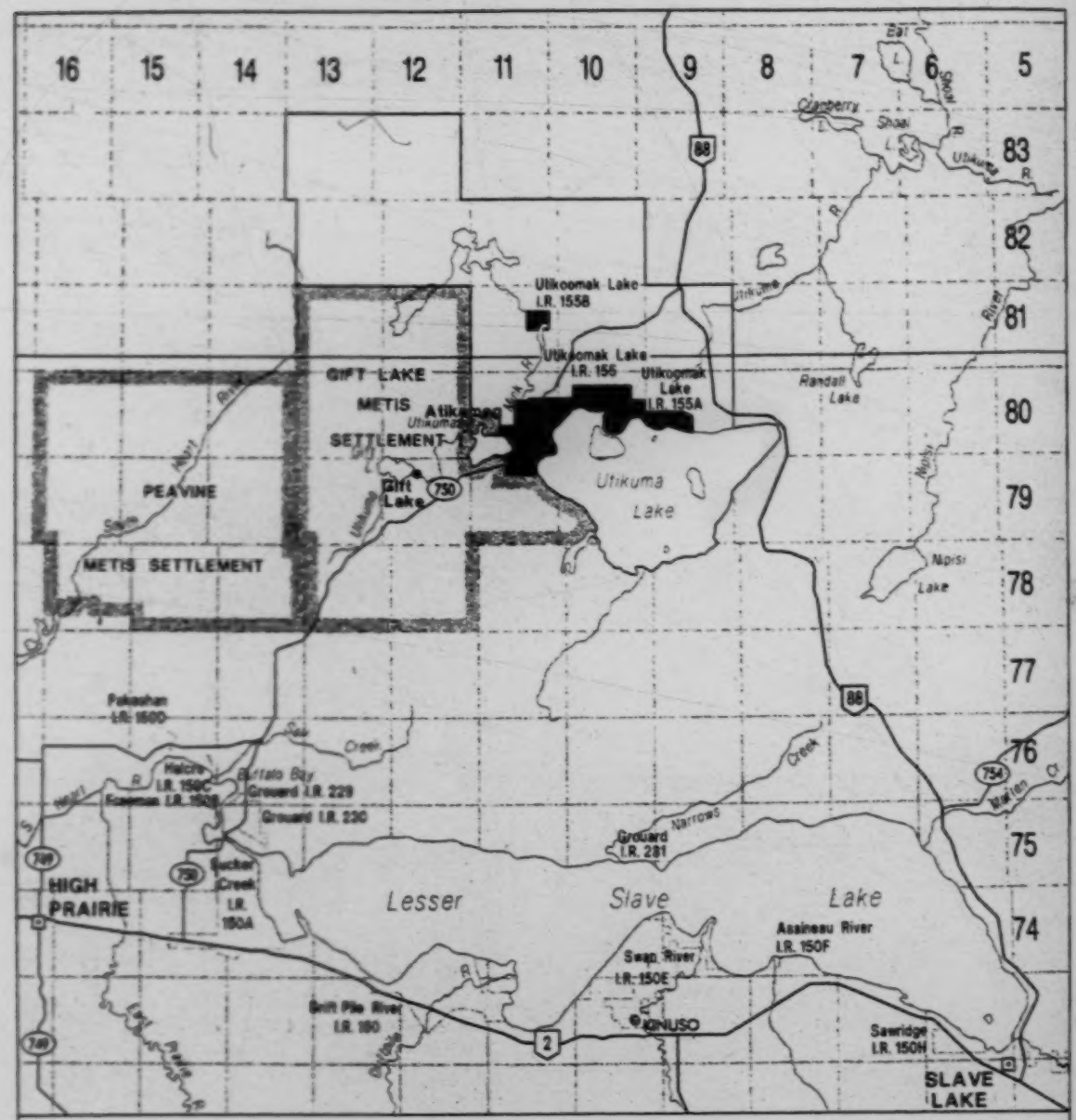
As part of the Alberta provincial Aboriginal strategy, cooperative management agreements constitute a formal commitment to dialogue and work with a First Nation on environmental or renewable resource issues of mutual interest and concern (Alberta 1996). Three cooperative management agreements exist in Alberta between the provincial government and the Whitefish Lake First Nation, the Little Red River and Tallcree First Nations, and the Horse Lake First Nation. This chapter will detail the structural and organizational elements of the three cooperative management agreements, including relevant background information.

6.1 Whitefish Lake First Nation Cooperative Management Agreement

Whitefish Lake First Nation is located approximately 80 km northeast of High Prairie (see Figure 1). The community has an on-reserve population of 758 and a total population of 1,609 (Canada 1997b). The Whitefish Lake First Nation includes three areas of land covering a total area of 8,228.9 ha.

When the Whitefish Lake First Nation adhered to Treaty Eight in 1901, all members of the community were not counted. Owing to this, they were entitled to additional land or cash in lieu of land, or some combination of the two, as part of the settlement of a "treaty land entitlement claim". In 1986, the Whitefish Lake First Nation Treaty Land Entitlement was validated. During the negotiation phase of this claim, the Whitefish Lake First Nation recognized that the cash and land component of their impending settlement would not likely ensure a sustainable future for the community. Whitefish Lake First Nation Chief Eddie Tallman affirmed "throughout these negotiations, the objective in the back of our minds was economic development, jobs, business opportunities, contracts and training" (Tallman 1995).

As part of the negotiation process, a *Memorandum of Intent* was signed on November 25, 1988, between the negotiators representing the Crown in right of



WHITEFISH LAKE FIRST NATION

Cooperative Management Area Boundary

Figure 1

Source Alberta Environment, Resource Data Division, February 2000

Alberta, the Crown in right of Canada, and the Whitefish Lake First Nation (Appendix F). The *Memorandum of Intent* (MOI) represented a tentative settlement proposal that was submitted to the signatories' respective principals for consideration. The *Memorandum of Intent* contained a clause indicating additional items the parties agreed to, but that did not form part of the final treaty land entitlement agreement. Specifically, item (b) concerned wildlife and fisheries management. The clause stated:

> Alberta and the Band agree to enter into discussions on cooperative approaches to wildlife and fisheries management in an area surrounding the Band's reserves.
>
> (Alberta – Canada – Whitefish Lake First Nation 1988)

The Treaty Land Entitlement was signed in January of 1990. However, it was not until June 10, 1993 that the Whitefish Lake First Nation wrote to the Minister of Environmental Protection to request a "co-management demonstration project." In that letter, the Whitefish Lake First Nation defined renewable resource co-management as having the following features:

- Joint planning and management by Alberta Environmental Protection and those Indian Band Governments that have traditionally exercised resource stewardship of the area.
- No proprietary interest in the land.
- Bilateral governmental coordination, joint planning and shared decision-making, with respect to the renewable resources within the area.
- Sharing of authority, responsibilities, views and knowledge between elected government officials and technical staff of the governing bodies that represent and serve the people within these areas.

(Whitefish Lake First Nation 1993)

The Whitefish Lake First Nation proposed a formal advisory committee approach to resource management as part of their initial negotiations of a co-management agreement. The committee would be similar to the Lubicon proposal (discussed in Chapter 5), and advisory Board structures formed under the comprehensive claims co-management regimes. The province countered by suggesting a higher level of

consultation would be positive, but the approach should not involve a formal advisory council. The Whitefish Lake First Nation also proposed that Band members have exclusive use of their traditional area. The province categorically rejected this notion. Notwithstanding, on December 12, 1994, a cooperative management *Memorandum of Understanding (MOU) between the Whitefish Lake First Nation and the Government of the Province of Alberta* was signed (Appendix G).

The principles of the agreement are standard clauses that are contained in all three cooperative management MOUs: 1) that "nothing in the agreement will abrogate on (sic) derogate from any Aboriginal or treaty Rights referred to in Section 35 of the Constitution Act, 1982 (i.e., the agreements do not interpret, define or modify treaty or Aboriginal rights); and 2) that "nothing in this agreement, or any subsequent agreement signed as a result of it, should be construed as limiting the Government of Alberta in the exercise of its legislative and regulatory jurisdiction over matters in relation to natural resources". In other words, these agreements do not confer any proprietary rights to First Nations on provincial Crown land.

The specific objectives outlined in the Alberta – Whitefish Lake First Nation MOU include:

1. To develop a process of mutual cooperation and consultation on natural resource matters in areas of Forest Management Unit S9, to resolve issues of concern.
2. To address the following priority items:
   a) undertake a process to secure a Deciduous Timber Permit (DTP) of not less than 50,000 m^3 annually for 5 years;
   b) attempt to secure employment and business opportunities, and socio-economic benefits from private sector companies; and
   c) secure a commercial fishery allocation on local lakes.
3. To establish additional processes such as a Steering Committee responsible for identifying key resource management issues including the "development of recommendations for policy interpretations or changes in policy that may be required to achieve the objectives of the agreement" (Alberta – Whitefish Lake First Nation 1994a:2).

The Steering Committee is made up of the Assistant Deputy Ministers of the Land and Forest Service and the Natural Resource Service (responsible for Fish and Wildlife), a senior representative from Intergovernmental and Aboriginal Affairs, and representatives from Whitefish Lake. Other representatives could attend to address specific issues. The meetings of the Steering Committee were to occur on a monthly basis.

A companion document, a Memorandum of Agreement or Fiber Supply Agreement (Appendix H), was signed the same day as the Whitefish Lake Cooperative Management Agreement. The Deciduous Timber Permit, identified as a priority in the MOU, was issued for a seven-year period (not five years as was suggested in the MOU). The Memorandum of Agreement included the terms under which the fiber would be allocated similar to any other Fiber Supply Agreement signed in Alberta. Included was a specific objective of the Whitefish Lake First Nations to provide training experience and employment for the community (Alberta – Whitefish Lake First Nation 1994b).

An *Implementation Plan* (Appendix I) for the cooperative management MOU was signed November 21, 1997. The *Implementation Plan* outlines the establishment of a regional management structure called the "Implementation Committee." Areas of mutual interest and concern are outlined and include identification of economic opportunities, training in silviculture and fire fighting, and a commercial fishing allocation (Alberta – Whitefish Lake First Nation 1997a). Terms of reference (Appendix J) were also developed for the Implementation Committee (Alberta – Whitefish Lake First Nation 1997b). The *Terms of Reference* identify that annual summaries shall be prepared by the Implementation Committee for submission to the Steering Committee. The annual summaries are to identify activities that have occurred over the calendar year.

6.2 Little Red River/Tallcree Forest Planning Memorandum of Understanding

The Little Red River Cree Nation includes two reserve areas, John D'or Prairie and Fox Lake, covering a total area of 24,472.3 ha. They are located approximately 48 km and 90 km respectively, east of Fort Vermilion (see Figure 2). The communities have an on-reserve population of 2,323 and a total population of 2,972 (Canada 1997b). The Tallcree First Nation includes three reserve areas, Beaver Ranch, Tallcree, and Fort Vermilion, covering a total area of 3,775.3 ha. They are all located within 50 km of Fort Vermilion (see Figure 2). These communities have an on-reserve population of 403 and a total population of 864 (Canada 1997b).

The interest of the Little Red River/Tallcree First Nations to enter into a cooperative management initiative was first articulated in their 1991 Model Forest proposal. Their intent from the outset has been clear: "we place the Government of Alberta on notice that any economic use of renewable resources within this area should by right be awarded to the Nation or corporate entities owned by the Nation" (Little Red River Cree Nation 1991). Similar sentiments were heard in 1997: "the ultimate goal of the Cooperative Management Agreement is to regain control over their traditional lands and establish a sustainable forest-based local economy" (Fraser 1997:61).

Negotiation of a cooperative forest management planning MOU commenced in 1994, and culminated in a signing on May 26, 1995 (Alberta – Little Red River/Tallcree First Nations 1995). Like the Whitefish Lake Agreement, a specific geographic area of interest is defined. It is called the "Special Management Area" (SMA) and includes Forest Management Units F3, F4, and F6 (see Figure 2)[15]. The *Little Red River/Tallcree MOU* (Appendix K) is more complex and more detailed than the Whitefish Lake MOU. It incorporates a "Fiber Supply Agreement" and specific timber allocation commitments from the province, which results in a more convoluted document. In addition, numerous "principles" were added, apart from

[15] A revised MOU between Alberta and the Little Red River/Tallcree First Nations was signed on September 1, 1999. In the new MOU, the Special Management Area was expanded to include Forest Management Units F2, F3, F4, F5, F6, F7, and portions of F10 and A9. This expanded MOU area is illustrated in Figure 2.

LITTLE RED RIVER CREE NATION AND TALLCREE FIRST NATION
Cooperative Management Area Boundary

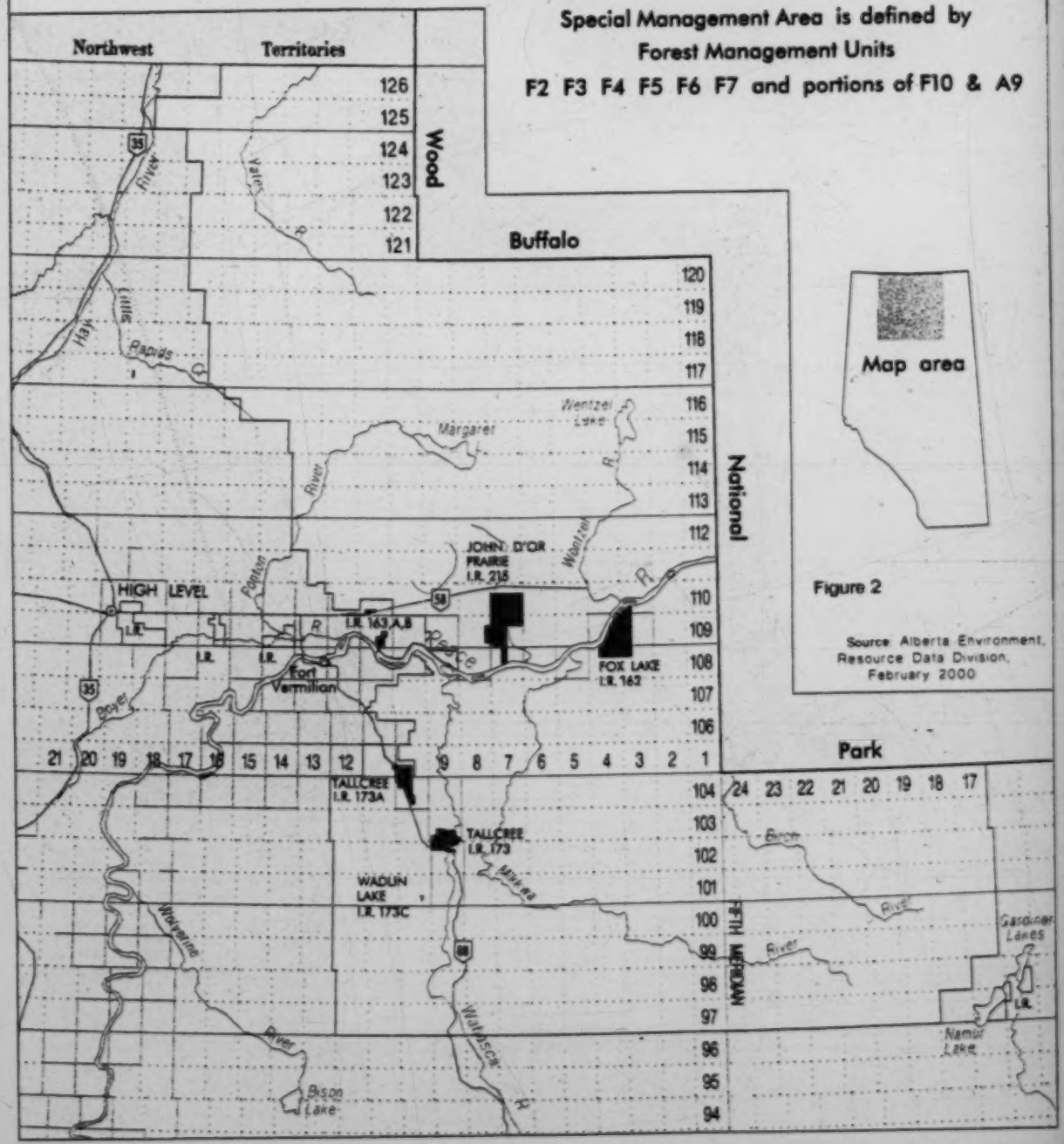


Figure 2

Source Alberta Environment, Resource Data Division, February 2000

the standard clauses identified above. Some key additional principles included identification of sustainable development practices and the contribution of resources to the local economy, recognition of traditional and cultural uses, and recognition of the importance of third-party involvement (i.e., the importance of bringing industry to the table).

The *Little Red River/Tallcree MOU* provides a detailed phased structural framework to guide implementation. Phase 1 details the fiber supply agreement, while Phase 2 outlines the goal of completing an evaluation of the SMA using an ecosystem approach.

The evaluation in Phase 2 includes a review of existing data, the identification of gaps, and guiding and funding other studies. Phase 2 also details the establishment of a Forest Management Planning Board. The Board, the first of its kind in Alberta, was responsible for developing a Forest Management Plan. The Board consists of three representatives from Alberta, three representatives from the Little Red River Cree First Nation, two representatives from the Tallcree First Nation, and one representative from the Municipal District of MacKenzie #23. The Board strives for decision-making by consensus. However, if consensus cannot be reached, there must be a majority vote of First Nations representatives before the matter is resolved. There are provisions to involve third parties (industry and special interest groups) as necessary. The Board process also recognizes the importance of general public involvement.

Phase 3 details the contents of the Forest Management Plan. An integrated resource management approach is used to guide the development process. This includes the establishment of resource use priorities within a sustainable development management framework and traditional use, objectives and guidelines for use of forest resources, focus on training and employment, and identification of initiatives to address wildlife and habitat concerns.

Phase 4 includes strategies to implement the Forest Management Plan. The Board, for example, may make recommendations on management or development mechanisms required, administrative or contractual adjustments, and amendments to regulations, laws or government policy.

On September 5, 1996, Alberta and the Little Red River/Tallcree First Nations signed a *Letter of Intent* (Appendix L). The purpose of this letter was to articulate the mutual intent of the parties to develop an understanding on cooperative management of forests and the allocation of timber. It set down terms of the timber allocation between the two First Nations and Alberta. This included a commitment by Alberta to consult with the First Nations prior to allocations or commitments of timber reserves in the SMA. The *Letter of Intent* also detailed discussions of amending the existing MOU to expand the Special Management Area, and to expand the Forest Management Planning Board to include High Level Forest Products Limited (Alberta – Little Red River/Tallcree First Nations 1996). The MOU had a three-year timeframe from the date of signature. It expired in May 1998, whereupon, negotiations commenced on a new cooperative management agreement.

The period of challenging negotiations culminated on September 1, 1999, with the signing of a new MOU (Appendix M). While the spirit and intent of the new MOU remain constant, there were many key changes from the original MOU including the following:

- The Board was expanded to include two forestry companies and two First Nation community economic development corporations,
- A clause was added which would allow the consideration of new Board members who would represent the energy sector and the department of Resource Development,
- A comprehensive definitions section was added to ensure common understanding of the key terms,
- The MOU was linked to significant Alberta Environment policies, like the *Cooperative Management Framework Document*, the *Alberta Legacy* and the *Interim Forest Management Planning Manual, April 1998.*

- The forestry allocation detail was removed from the body of the new MOU as it was seen as extraneous to the mandate of the board, and
- The mandate of the Board changed from developing a Forest Management Plan to developing a Cooperative Renewable Natural Resource Management Plan.

The extent to which these changes improve the MOU from the original will be discussed in Chapter 7.

6.3 Horse Lake First Nation Cooperative Management Agreement

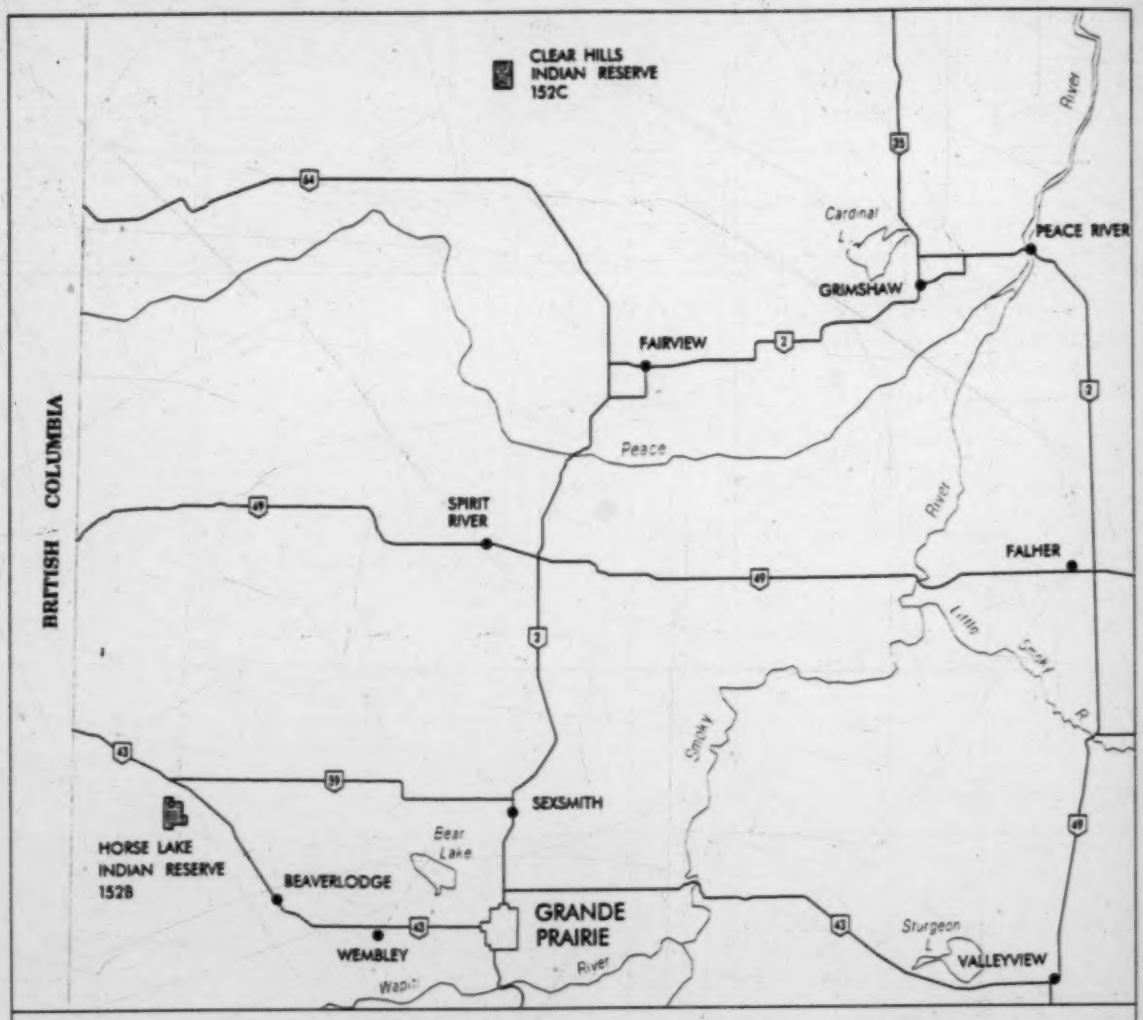
The Horse Lake First Nation includes two reserve areas, Horse Lake and Clear Hills, covering a total area of 3,099.1 ha. The Horse Lake reserve is located approximately 60 km northwest of Grande Prairie, while the Clear Hills reserve is approximately 150 km north of Grande Prairie (see Figure 3). The communities have an on-reserve population of 245 and a total population of 601 (Canada 1997b).

In 1993/94, provincial moose surveys suggested that moose numbers dropped to below-average levels in areas important to the Horse Lake First Nation for subsistence hunting. The Horse Lake First Nation, prompted by concern about the ability of the province to ensure continuance of supply of wildlife to meet community subsistence requirements, requested involvement in moose management with Alberta (Kachuk 1999). A *Memorandum of Understanding between the Horse Lake First Nation and the Government of the Province of Alberta* was signed in June 1997 (Appendix N). Negotiations occurred over a four-year period.

The Horse Lake MOU is structurally similar in most respects to the Whitefish Lake MOU with three notable exceptions:

1. There was no associated forestry allocation to the Horse Lake First Nation, as no wood was available.

2. The Horse Lake MOU Steering Committee is structured to include "appropriate senior officials" from the Government of Alberta, whereas the Whitefish Lake Steering Committee identifies the Assistant Deputy Ministers to sit as members.



HORSE LAKE FIRST NATION

Provincial Location Map

Figure 3

Source: Alberta Environment, Resource Data Division, February 2000

3. No specific geographic area is defined. Rather the MOU, pursuant to the *Memorandum of Understanding between her Majesty the Queen in right of the Province of Alberta and the Grand Council of Treaty 8 First Nations*, identifies that the "parties hereby agree to a process of cooperative management on environmental and renewable matters within mutually agreed upon areas of Treaty 8" (Alberta – Horse Lake First Nation 1997).

The specific objectives identified in the Horse Lake MOU include:

- creating of structures and processes to implement cooperative management;
- facilitating the development of more specific initiatives to help achieve economic, social and cultural objectives;
- fostering positive working relationship between the parties; and
- committing to the principles of sustainable development and ecosystem management.

Shortly after signing the MOU, the parties commenced negotiation on the development of an implementation plan identifying long and short-term community priorities. The *Implementation Plan* for the Horse Lake Cooperative Management Agreement was signed on April 21, 1998 (Appendix O). In many ways, it is indistinguishable from the MOU with a couple of notable exceptions. The implementation plan, for example, suggests that the Deputy Minister of Environment will name Steering Committee members whereas the MOU identifies the Minister of Environment to appoint members.

The important addition to the implementation plan was the proposal of the parties to develop communications strategies. These were to be developed as required to "promote an awareness and understanding of the MOU; to encourage the development of formal and informal lines of communication among various parties in order to help match the skills, services and capabilities of the Horse Lake First Nation with potential economic development opportunities; to coordinate the distribution of written materials from various sources which are relevant to the objectives and activities under the MOU; and to further specific work initiatives" (Alberta – Horse Lake First Nation 1998:2).

The cooperative management MOU is currently being revised at the request of the Grand Chief of the Western Cree Tribal Council. The existing MOU would be expanded to include First Nation members of the Western Cree Tribal Council (Sturgeon Lake, Duncan's Band and Horse Lake). Significant revisions may include the addition of a clause stating that the MOU is not a mechanism for discussing allocations, nor does it confer a proprietary interest in provincial Crown land. Other additions may include a clause linking the MOU to the Government of Alberta business planning cycle, a termination clause, an expiration clause, a clause identifying that the MOU becomes a public document upon execution by both parties, and a clause identifying that the *Western Cree Tribal Council MOU*, when signed, will supersede the Horse Lake MOU. Negotiations on the expanded MOU have not yet been concluded.

6.4 Summary

The range of flexibility and variety of the three Alberta cooperative management agreements should now be apparent. The purpose of the next chapter will be to discuss the similarities and differences of the Alberta MOUs by dividing the chapter into the following thematic areas:

- comparing and contrasting structural and organizational elements, and
- comparing and contrasting implementation elements.

7.0 Discussion and Analysis of Cooperative Management in Alberta

The previous chapter summarized the three Alberta cooperative management agreements. This chapter will compare and contrast the Alberta agreements to each other and across the Canadian landscape. As the Treaties set up a unique situation in Canada, it is of limited value to examine agreements outside of that context. This broad-based approach will provide a moderate baseline to which further studies can compare. In addition, it is hoped the analysis will shed some light on aspects of the agreements that are considered successful, as well as on those areas where improvement is desirable. The evaluation is based on the literature review, participant observation and the semi-structured interviews.

7.1 Structural Elements of Alberta Cooperative Management Agreements

This section focuses on the content of the three Alberta agreements. The significant topic areas include goal, principles, objectives and implementation procedures.

7.1.1 Goal of Alberta Cooperative Management Agreements

In Chapter 2, I suggested that co-management in Canada generally fits into three categories: those that evolve out of comprehensive land claims settlements, those that evolve out of a perceived wildlife crisis, and those that are court directed. In addition, I suggested that a fourth type of co-management agreement is beginning to emerge – provincially negotiated co-management/cooperative management designed specifically to meet provincial consultation requirements with First Nations. The Alberta cooperative management agreements represent the fourth type of co-management because their primary written goal is consultation. Devolution and decentralization of wildlife management systems is not a theme of Alberta cooperative management. These agreements are not legally binding nor are they intended to create any "legally enforceable obligations", as compared to the comprehensive claims co-management regimes.

The Whitefish Lake MOU and the Horse Lake MOU are specifically oriented towards developing consultation mechanisms. The primary goal of the Whitefish Lake and Horse Lake MOUs is to enter into a process of dialogue and consultation on items of mutual interest and concern. Even the Little Red River/Tallcree MOU, which follows a more "traditional" co-management model, does not discuss devolution of wildlife management through the Board.[16] The Little Red River/Tallcree MOU identifies the following primary goal for the parties: "It is in their best interest to achieve sustainable development within the First Nations' areas of traditional use…to ensure that the areas' natural resources contribute to the development of the economies of Alberta and the First Nations" (1995:1). The primary function of the original Board was to undertake the development of a Forest Management Plan that included a landscape assessment and a resource management philosophy and goal statement.

Swerdfager (1992) identified that one of the most frequently cited concerns of co-management centers on the lack of clarity in the meaning and intent of the agreement. This, in fact, was a significant contributor to the dysfunctional nature of the Forest Planning Board established under the original Little Red River/Tallcree MOU. Alberta representatives grew concerned when they realized that the mandate of the Board was to develop a Forest Management Plan. They interpreted this to mean a detailed Forest Management Plan, which in the case of timber permits, is the responsibility of the Department of Environment. Staff of Environment were worried that they might be in a conflict-of-interest situation – where the Regional Director in his capacity as Forest Management Board member would be developing a Forest Management Plan that he would, in his capacity as Regional Director, eventually approve (Interview Notes, Anonymous). The misinterpretation of the concept of a forest management plan was the death knell of the Little Red River/Tallcree Forest Planning Board.

---

[16] That is not to suggest that some form of devolution or decentralization of wildlife management will not be proposed or considered during the development of the cooperative forest management planning process.

The new Little Red River/Tallcree MOU describes an essentially identical planning process. However, the terminology was changed from Forest Management Plan to Cooperative Renewable Natural Resource Management Plan. This plan was defined to mean a "landscape assessment and a resource philosophy and goal statement more particularly described in the *Interim Forest Planning Manual, April 1998…*"(Alberta – Little Red River/Tallcree First Nations 1999:3). This provides a clearer focus that addresses Environment staff concerns about a conflict of interest. While this clarification can not guarantee Board success, it should allow the Board to get on with the task of developing a landscape assessment and a resource management philosophy and goal statement.

7.1.2 Principles of Alberta Cooperative Management Agreements

A review of co-management regimes and the literature pointed to five principles that are standard in co-management agreements that spell out the rights and obligations of the parties. These principles are:

- the recognition of the need to operate openly and in the spirit of cooperation,
- the recognition of inclusiveness,
- the recognition and respect of jurisdictional authority,
- the recognition and respect for Aboriginal and/or treaty rights, and
- the recognition of "ecosystem management" or "sustainable development" approaches.

All the above principles are explicitly recognized in all agreements with one exception – the principle of inclusiveness. The Little Red River/Tallcree MOU makes it clear that both parties recognize the involvement of other stakeholders in the Special Management Area will be vital to the process. In addition, the renegotiated agreement allows for the expansion of the Board to include two forestry companies and two First Nation community economic development corporations, and the consideration of new Board members who would represent the energy sector and the department of Resource Development. The Horse Lake agreement identifies that, by mutual consent, representatives from industry or other stakeholders may

participate. The Whitefish Lake MOU makes no mention of involvement of third parties or other stakeholders whatsoever. However, the implementation plan crafted to guide operation of the Whitefish Lake MOU identifies the principle of inclusiveness.

During the re-negotiation of the Little Red River/Tallcree MOU, a clause was added proclaiming that the MOU is not a mechanism to discuss allocations nor does it confer a proprietary interest in provincial Crown land – essentially a principle recognizing the jurisdictional authority of the province of Alberta. The addition of this clause was not an issue of contention with the Little Red River/Tallcree First Nations. But this has become a fundamental point of disagreement in negotiations to expand the Horse Lake First Nation MOU. This is alarming to provincial resource managers because it represents a fundamental departure in understanding on the authority of the MOU.

7.1.3 Objectives

In Chapter 2, the literature review identified three primary common objectives of co-management: 1) devolution and decentralization of wildlife management systems, 2) incorporation of including traditional environmental knowledge in the state management system, and 3) capacity building and economic development (education, training and employment in resource-based jobs) (Usher 1987; Feit 1988; Pinkerton 1989; Dale 1989; Freeman 1989; Swerdfager 1992; Witty 1994). The Alberta agreements have two primary goals: development of a vehicle for meaningful consultation; and facilitating the development of specific initiatives to help achieve First Nations' economic objectives.

The objective of the three MOUs as a vehicle for meaningful consultation between the parties has been well received by members of the First Nations (Interview Notes, Anonymous). First Nations have not had ready access to information, policies and practices of the provincial government (Interview Notes, Anonymous). The MOUs provide what some consider a "watchdog" or "ombudsman" function for First

Nations. The MOUs are intended to establish a consultation vehicle that offers a first-hand opportunity to determine what the policy is, then either holds the government accountable for implementing the policy or challenges it (Interview Notes, Anonymous). The relative success of the MOUs as a vehicle for meaningful consultation will be discussed in Subsection 7.2.1, Commitment.

Concerns were expressed by government informants that the MOUs "lacked clear policy direction as to what they want to achieve" (Interview Notes, Anonymous). This concern may be more prevalent with the Whitefish Lake and Horse Lake MOUs because specific direction is not provided through the agreement itself. Detailed direction is developed as part of the implementation planning process. This issue is not unique to the Alberta agreements. Swerdfager (1992) identifies this as a major problem in his review of cooperative wildlife management. In addition to specifically outlining clear policy direction, the Alberta agreements may also need to identify what is not contained in the agreements. There seems to be an inference in some instances that what is not said is included (Interview Notes, Anonymous). Clear definitions for pivotal terms in the agreements are also lacking for the most part. For example, the word 'consultation' means consent to Aboriginal people, but not necessarily to bureaucrats (Interview Notes, Anonymous).

The need to facilitate economic development opportunities was a critical thrust in all three Alberta MOUs. The Horse Lake MOU identified the objective of facilitating the development of more specific initiatives, while the Whitefish Lake MOU identified the objective of "undertaking a process to attempt to secure employment and business opportunities and other socio-economic benefits...through consultation with private sector companies in the area" (Memorandum of Understanding between the Whitefish Lake First Nation and the Government of the Province of Alberta 1994:1). The Little Red River/Tallcree MOU makes numerous references to consideration of employment and economic opportunities for both First Nations, and goes so far as to say that "Alberta and the First Nations agree that responsible management of the Area must be supportive of local and regional resource-based

economies" (Alberta – Little Red River/Tallcree First Nations 1995:2). The relative success of achieving these goals will be discussed in the implementation section.

During the interview process, one informant speculated that the parties to the Alberta cooperative management agreements may have different objectives; what is written down in the cooperative management agreement may be different from what is perceived. For example, "the province may believe that they are 'buying time', without having to solve anything, while First Nations may be desirous of co-jurisdiction, thus creating a condition whereupon both parties sign an agreement to which they don't subscribe" (Interview Notes, Anonymous).

I have difficulty giving credence to the presumption that Ministers would sign a cooperative management agreement with the intent to "do nothing". These agreements have provided a serious challenge for Alberta in a number of areas – they have challenged existing management regimes, decision-making processes, and most significantly, they have challenged staff to reflect on their own personal attitudes towards First Nations people and resource management. The strategy of "buying time" would have been better met had the agreements not been signed. I believe First Nations are desirous of co-jurisdiction and even a proprietary interest in natural resources (which will be sought through the courts). Because they have signed a cooperative management agreement, the hope of someday achieving a higher level of decision-making authority is not diminished. It is my view that both parties subscribe to the cooperative management process, but have divergent expectations about what that process will yield.

7.1.4 Decision-Making Authority

Decision-making control in co-management often refers to allocation decisions on fish and wildlife species. While there are provisions in each agreement to discuss fish and wildlife issues, the MOUs do not include the discussion of resource allocation. The Alberta agreements are plainly and simply not about sharing the management jurisdiction and authority.

The Saskatchewan policy on co-management is identical in spirit to the Alberta circumstance of facilitating "advisory participation in decision-making without prejudice to government's jurisdiction, ownership and management authority over Crown lands" (Murray 1995:6). But Osherenko points out that regarding the issues of decision-making on Crown lands, "co-management does not require government agencies to relinquish or transfer any legal authority or jurisdiction. It does, however, require public authorities to share decision-making power with user groups" (1988b:13). Morgan (1993), in a review of co-management in Canadian national parks, notes that Aboriginal groups are more concerned about the practical political power of Board recommendations than the advisory nature of the agreements. Provided the recommendations were not overturned, the Aboriginal groups were satisfied with management Boards that were advisory (ibid.).

The agreement that goes furthest on the Berkes et al. (1991) decision–making authority hierarchy in Alberta is the Little Red River/Tallcree MOU. It puts in place a Cooperative Forest Management Board with a mandate to develop a landscape assessment including a broad resource management philosophy and goal statement, making it similar in many regards to the co-management structures in place elsewhere. The parties understood that the Board was advisory only, but this critical detail was not clearly written in the original MOU. The wording in the new Little Red River/Tallcree MOU strengthens this message by identifying that the Board reports to the Minister of Environment and the "Minister has final decision making authority on matters within provincial jurisdiction" (Alberta – Little Red River/Tallcree First Nations 1999:6). The parties acknowledge and agree that Ministerial discretion can not be fettered.

Notwithstanding, in theory this Board process represents a significant degree of power-sharing. Fraser (1997) suggests that because of the MOU, the Little Red River/Tallcree First Nations believe they have regained a degree of control over their traditional lands. Through the Deciduous Timber Permit allocations, and through the cooperative planning process identified in the MOU, the Little Red River/Tallcree

will play an active role in natural resource management within the Special Management Area. In terms of decision-making, the Board would be considered to reach level 5 (Advisory Committee) in the Berkes et al. (1991) hierarchy, where there is a partnership in decision-making but the Board is advisory.

The First Nations have not identified the level of decision-making authority conferred by the MOUs as being a concern. However, the Horse Lake MOU has not reached a point where meaningful dialogue on issues has occurred. As discussed previously, one of the primary causes of "lack of progress" may stem from a belief by the First Nation that the MOU does confer a "proprietary interest" in Crown land to the First Nation. Alberta's view on this matter was articulated during negotiation of the MOU; further, the view is contained within the *Cooperative Management Framework Document* (Alberta 1996), and is within the MOU itself – cooperative management agreements do not confer a proprietary interest in Crown land and resources to First Nations (Interview Notes, Anonymous). Until an understanding is reached on this matter, it is improbable that the Horse Lake MOU will ever be successful.

7.1.5 Implementation Procedures

Swerdfager (1992) discusses the importance of clearly articulating the implementation procedures as opposed to "working out the details" at a later date. Specific topics that warrant attention include membership, administration and funding, dispute resolution, and monitoring and evaluation.

7.1.5.1 Membership

Approximately three community representatives and three government representatives attend implementation meetings of the Whitefish Lake and Horse Lake MOUs, depending on the issues in front of the Committees. This balance in the structure of the advisory committee or Board between Aboriginal and non-Aboriginal representation is reflected in a review of other co-management cases.

The expanded Cooperative Management Planning Board for the Little Red River/Tallcree MOU stands as the Alberta exception. The new Board will be made up of 13 representatives and, like the Beverly-Qamanirjuaq Caribou Management Board, it will have more native representation than non-native. The additional members include two forest industry representatives and two native representatives whose role is to facilitate the cultural, educational and economic objectives of each First Nation community. With the expanded membership, the functionality of the Board will be challenged (Interview Notes, Anonymous).

The Steering Committee established for the Whitefish Lake MOU was to include the Assistant Deputy Ministers of Land and Forest Service and Natural Resource Service of the department of Environmental Protection, a senior representative from the Alberta Department of Intergovernmental and Aboriginal Affairs, and Whitefish Lake First Nation representatives. The Steering Committee was to meet on a monthly basis. In retrospect, the meeting schedule was too ambitious (Interview Notes, Anonymous). It was difficult for senior officials to meet with that level of frequency and, as such, few meetings of the Steering Committee were held (approximately four or five in the first three years of the Agreement). When the Horse Lake MOU was negotiated, there was a conscious shift to appoint Regional Directors to the Steering Committee. The Regional Directors are generally more accessible and are the senior authority in the regions. More importantly, however, they deal with operational matters (which are the intended level of focus of the MOUs), not political or constitutional issues.

The Horse Lake First Nation challenged this change in direction. They wanted to ensure access to the political level, with negotiations on a government-to-government level, and wanted to ensure that the department representative they were dealing with had a high level of authority and autonomy in decision-making. A concern was also expressed about focusing on the regional consultation approach. There is a belief that this form of dialogue may constitute "false consultation" because it is felt that regional managers lack decision-making authority (Interview

Notes, Anonymous). Alberta believes the level of decision-making authority appropriately resides at the Regional Director level. The important factor is that the level of authority between Committee or Board members is balanced.

7.1.5.2 Administration and Funding

Alberta expects First Nations to fund their own involvement in MOU negotiation and implementation. There are two justifications for this view. The first is that the province accommodates the interest or request of First Nations to enter into and sign MOUs. Alberta does not promote or solicit interest by First Nations, and believes that MOUs should be community-driven (Interview Notes, Anonymous). The second reason Alberta does not provide funding for MOUs is that Alberta, like Ontario, holds the view that the cooperative management process should be self-supporting (Murray 1995). There are assertions that in the creation of community economic development, there must be some..."willingness by the community to assume some of the costs of management, at least in kind..." (Pinkerton 1993:2). With each party contributing to the effort there will be a better product and perhaps greater ownership of the result. The creation of a relationship between the provincial government and First Nations of paternalism and dependency, in the model of the legacy of the federal government, is an example to be avoided.

Consequently, the MOUs contain a clause that states that each party will be primarily responsible for their own administrative costs related to the operations or implementation of the MOU. In the case of Whitefish Lake, the province provided a one-time grant for $52, 500.00 for costs of planning and implementing the MOU, but this was an exception. The Little Red River/Tallcree MOU contains a clause stating that both parties agree to provide the necessary funding, and to work cooperatively to secure funding from additional sources.

This strict view adopted by the province on the issue of funding may have created a false expectation. What has been witnessed to this point may be the erroneous belief by the state that cooperative management will not have any associated financial

costs. I believe that the disparity exists between the political and operational levels. The regional manager understands all too well that the requirement to dedicate staff time and resources to operationalize the MOUs will be time diverted away from other tasks (Interview Notes, Anonymous). If the political commitment to cooperative management was accompanied by some resourcing commitments as well, perhaps provincial resource managers could place a greater degree of emphasis on implementing the agreements. In addition, funding opportunities need to be explored with the federal government and industry[17].

7.1.5.3 Dispute Resolution

A clear sign of success in these MOUs will be when the parties have the confidence to agree to disagree without fear that the entire cooperative management process will break down. All too often, unfortunately, not enough effort is made to settle disputes at the operational level. When this occurs, it undermines the cooperative process.

Following the signing of the Whitefish Lake MOU Implementation Plan in 1997, the Implementation Committee, which functions at the operational level, reports to the Steering Committee. This has been working. The MOUs contain a provision for the establishment of higher-level committees. On some issues, consensus will not be achieved – that is, it will not be possible to come to any accommodation. Clarity on the legal position of the department will reduce these situations. First Nations always retain the ability to exercise their political option of lobbying the Minister or their MLA if they have concerns.

In all three Alberta agreements, the preferred means of decision making is by consensus. The Little Red River/Tallcree MOU provides a contingency whereby decisions that cannot be made through consensus will require a majority vote of First Nations represented on the Board. This was a particularly contentious issue during renegotiations but, at the end of the day, it remained in the new MOU. It was felt

[17] It should also be noted that the issue of funding in the context of consultation under Section 35 of the Constitution has not yet been considered by the Supreme Court of Canada (Sharvit et al. 1999).

this condition was necessary to counterbalance the reality that state representatives get a second "kick at the can" when Board recommendations move forward to the Minister for approval (Interview Notes, Anonymous).

7.1.5.4 Monitoring and Evaluation

MOUs are monitored in two ways. First, they will be linked to the Department of Environmental Protection's three-year business planning cycle. This may have little meaning for the First Nations community; however, for the department, inclusion in the business plan confers a certain level of priority for the MOUs. Second, the agreements call for the development of annual implementation plans that will be provided to the Ministers for review.

The agreements are between Aboriginal governments, and two departments of the Alberta government – Intergovernmental and Aboriginal Affairs and Environmental Protection. The primary role of Intergovernmental and Aboriginal Affairs is to help make the necessary linkages between the First Nation community and other government departments that may play a role as issues are raised through the co-management body. As noted by the Horse Lake representative, "if the Department of Environmental Protection fails in meeting its obligations, because Intergovernmental and Aboriginal affairs is also a signatory to the MOU, we will also hold them accountable" (Kachuk 1999).

Other processes that are the responsibility of the Implementation Committee need to be straightforward. For example, annual reports are called for in the Implementation Plan for the Whitefish Lake MOU. These annual reports need be no more complex that a discussion of key actions and decisions based on a summary of previous minutes that are noted and forwarded to the politicians on both sides to keep them "in the loop".

7.2 Operational Elements of Alberta Cooperative Management Agreements

Chapter 2 identified issues related to operationalizing co-management agreements. This section focuses on the same headings: commitment to the process, communication, incorporation of Traditional Ecological Knowledge (TEK), economic development and creating community capacity, and public and third-party involvement. The focus of this section will be on the three Alberta cooperative management agreements.

7.2.1 Commitment

Simply stated, without commitment at all levels by the parties to the agreement (First Nations and government), co-management will fail. Pinkerton (1989), for example, points out that the attitudes of resource managers and scientists can prevent Agreements from being successful. The lack of implementation success of the James Bay Agreement is also blamed on attitudes. The James Bay Cree, in a brief submitted to the Standing Committee on Indian Affairs, identified "a prevailing distrust of Inuit intention on any given point" (Canada 1982b).

The *Understanding on First Nations/Alberta Relations, Memorandum of Understanding between her Majesty the Queen in right of the Province of Alberta and the Grand Council of Treaty 8 First Nations*, the *Environmental Protection Cooperative Management Framework Document*, and the signing of the three MOUs, demonstrate the political commitment to cooperative management. First Nations question whether a proportional level of commitment exists at the operational level (Interview Notes, Anonymous). In some cases, First Nations do not see a meaningful attempt by the government to discuss issues (Interview Notes, Anonymous).

Osherenko notes that "government officials...often jealously guard their authority against encroachment by other agencies, (and) are not in the habit of sharing power with those they have the authority to regulate" (1988b:33). Campbell (1996) predicted that if the opportunities for input are not meaningful and First Nations

expectations are not met through the co-management process, then their frustration levels are likely to escalate. Her assessment was exactly right, as shown in a case dealing with an incident involving the Horse Lake MOU.

According to the Horse Lake First Nation, cooperative management has the potential to meet the department's legal obligation to consult with First Nations, but to this point it has failed. They cite the expansion of Young's Point Provincial Park[18] (5 mi. from the Sturgeon Lake First Nation) which occurred without consultation. The Horse Lake First Nation claims, "It has been a challenge for us to continue in a partnership when the one party continues to say, 'Oops, we made another mistake, we forgot to include you'. Whether it is deliberate or not, it is sabotaging the MOU" (Interview Notes, Anonymous).

Whitefish Lake has also expressed concern over the level of provincial government commitment to implement their MOU. They are particularly frustrated that the goal of the MOU as a consultation mechanism was not being met as industry continue to operate within their "traditional area" without consultation.

I am unsure as to whether the issue is a lack of provincial government commitment to implement the MOUs. One issue seems to be government uncertainty as to what level of consultation (on oil and gas exploration and development in this case) is necessary to meet their legal obligations to consult, and to what extent the MOUs should facilitate that consultation. In frustration, some First Nations have structured "impact benefits agreements" that place demands on oil and gas operators for compensation, jobs, and control of contracts in return for unfettered access to provincial Crown land. Suffice it to say that limited oil and gas industry consultation has resulted in some First Nations communities believing they have no choice but to work outside the MOU process.

[18] Before the expansion of Young's Point Provincial Park, the Horse Lake First Nation made a proposal to Alberta to expand the MOU to include the Duncan's and Sturgeon Lake First Nations.

7.2.2 Communication

A lack of effective communication is, arguably, the most significant contributor to the breakdown of co-management agreements. Communication issues are cited in the review of the Beverly-Qamanirjuaq Caribou Board, the James Bay Agreement, and many provincial co-management regimes (Osherenko 1988b; Berkes 1989; Swerdfager 1992; Murray 1995). Five factors have been identified by Scott that individually, or in combination, contribute to communication failure:

1. the nature and function of language,
2. deliberate misrepresentation or filtering,
3. organizational size and complexity,
4. lack of acceptance, and
5. failure to understand (1967:301).

All the above causes have been identified or have been witnessed through implementation of the Alberta agreements.

While it is beyond the scope of this paper to delve deeply into the subject of "social distance", it is important to note the role of language in bridging those barriers. Both parties need to be cognizant that "the efficiency of language, the type of language employed and the degree of incongruency in the frames of reference of the sender and receiver" of communication will determine the level of understanding that occurs between the two parties (Scott 1967:302). Scott suggests the use of empathy, an "ability to project one's self into the other's frame..." (1967:303), to overcome the impediments created by social distance. This strategy should be employed in both formal and informal communication.

7.2.2.1 Formal Communication

Co-management establishes a forum for face-to-face dialogue with First Nations, and relies less on correspondence. This method of communication is preferred by First Nations, as correspondence is impersonal, usually incomprehensible and too formal (Interview Notes, Anonymous). However, with all three MOUs, there have been an insufficient number of meetings to ensure implementation success.

Two key issues in the implementation of the Whitefish Lake MOU affected the ability of the Steering Committee to meet: 1) the initial structure whereby Assistant Deputy Ministers were included on the Steering Committee; and 2) the loss of a key representative of the Whitefish Lake First Nation. The first issue was discussed in Section 7.1.5.1. Until the implementation plan identified Regional Directors as part of the Implementation Committee, few meetings were held between 1994 and 1997. The second issue points to the significance that key individuals play in ensuring successful implementation of co-management. The Whitefish Lake representative on the Implementation Committee was assigned other responsibilities. At that point, the MOU essentially went "dormant" until that individual was reassigned responsibility to implement the agreement (Interview Notes, Anonymous).

The Forest Management Planning Board under the Little Red River/Tallcree MOU was challenged by a lack of clarity in the meaning and intent of the planning process established under the MOU as discussed in section 7.1.1. While this factor inhibited cohesive functioning of the Board, there was one other communication issue raised during the interview process that requires some attention. The issue concerned membership of the Forest Planning Board. Turnover in membership on the Board resulted in many delays and repetitive discussions, and an inability to advance beyond superficial or preliminary discussions on many issues (Interview Notes, Anonymous). In addition, the politicizing of the Cooperative Forest Management Planning Board was one of the factors that contributed to its lack of success.

The Board was made up of individuals from the First Nations who represented the technocratic and political levels, and who had an interest in discussing issues beyond the mandate of the Board, such as jurisdiction and authority (Interview Notes, Anonymous). MacPherson speaks of the need to maintain a clean line between these levels through her Saskatchewan experience: "We leave political issues to the politicians. We find that bureaucratic processes that contain jurisdictional and self-government discussions (which are more than simply informational), cannot stay focused on the goal of sustainable environment and resource management" (1995:5). Similarly, Manitoba identified that "it is often difficult to get Aboriginal groups to focus on management issues as opposed to political issues" (Murray 1995:10). In general, in order to be successful, co-management must move beyond a dialogue about Aboriginal and treaty rights and move into the realm of finding mutually acceptable solutions (Rettig et al. 1989). For government representatives on the Cooperative Management Planning Board, this made it difficult to maintain focus on operational matters (Interview Notes, Anonymous). This issue was raised during the renegotiation of the Little Red River/Tallcree MOU. It appears that the solution lies in improved communication and management of Board meetings, not in membership make-up.

There has been some restructuring in Alberta's participation on the new Board that may lead to improvements in communication and management. One of these changes involved the acceptance of the Department of International and Intergovernmental Relations (IIR), Aboriginal Affairs to Co-chair meetings of the Cooperative Management Planning Board. During Board meetings, the Co-chair's roles include: controlling and directing discussion, coordinating with the other Co-chair, managing the time of the Board effectively and affording equitable time for all representatives, and maintaining decorum; consequently, the role of the Co-chair is a full time job. Generally, the contentious and challenging issues discussed by the Board, the "hard crunchy bits", are directly related to the mandate of the Department of Environment. It was felt that Environment staff should participate fully in Board discussions without the encumbrances associated with the Co-chair role.

The presence of International and Intergovernmental Relations, Aboriginal Affairs as Co-chair will provide much needed balance and support to the process. The Department of IIR is removed from the operational details, and thus can become, to an extent, the "honest broker". In addition, Alberta is treading on new ground here and it is important for the two departments to pool their resources to work through the issues. Much of the experience and effort required to manage a cooperative management planning board crosses many departments.

One further theme drawn from the interviews that resonated throughout all the MOU meetings was the lack of a business-like approach. This was viewed as a significant impediment to successful implementation of the agreements (Interview Notes, Anonymous). Specifically, the meetings were, at times, used as a forum for First Nations complaints (Interview Notes, Anonymous). This may be due to the fact that First Nations have had few exclusive operational forums available to raise issues. Whether appropriate or not, it serves as an opportunity to "clear the air", and is perhaps a stressful yet necessary prerequisite to meaningful dialogue. An ability to maintain decorum, respect and patience is essential as the Committees move forward to tackle issues that increase in contentiousness and complexity (Erasmus and Ensign 1991).

At this point, most organizations of First Nations communities organizations are not overly complex, with few tasks being differentiated (Interview Notes, Anonymous). Max Weber, noted German sociologist and economist, defined bureaucracy as an administrative tool to achieve goals; "bureaucracies require that individuals, to 'qualify' for their roles in differentiated organizations, posses specialized forms of training and education" (Scott 1967:248). The above issues are a cogent argument on the importance and need to create capacity among First Nations' communities.

7.2.2.2 Informal Communication

The issues of trust, mutual respect and relationship building are at the core of co-management regimes. Unless these factors are considered, co-management has little hope of success. This becomes even more significant in the within the Alberta context, where it seems that suspicion and mistrust permeates both parties (Interview Notes, Anonymous). Not just suspicion and mistrust of the knowledge base or cultural base, but suspicion of the cooperative management process in general, whereupon no clear rules are defined.

Earlier in the paper, I suggested that the attitudes of key participants of co-management regimes could either make or break the process (Cohen 1989; Busiahn 1989). These attitudes were discussed in relation to the concepts of power-sharing and decision-making. Much of the time, whether or not people are compatible is based on their attitudes, views and values. But sometimes too, and for no apparent reason, people just don't like each other and, therefore, need time and opportunity to get to know one another. The cooperative management meetings provide that opportunity.

Arguably, the informal dialogue inside and outside of the cooperative management meetings is as important as the formal dialogue within the meetings. Just as the cooperative management meetings are an opportunity to discuss and resolve natural resource issues of mutual interest and concern, the meetings also provide an excellent opportunity to cultivate the personal relationships of the parties. While this may seem trite, the ability and willingness of the parties to "get along" and the issue of whether or not the parties like each other is critical. From the First Nations perspective, unless a level of comfort and trust exists, the discussion of issues will never evolve beyond the superficial level (Erasmus and Ensign 1991). The selection of Alberta representatives to sit on the members of the new Little Red River/Tallcree Cooperative Management Planning Board, for example, was not strictly based on their positions within their respective organizations. Their experience, wisdom, tolerance and cultural understanding in working with First Nations communities was

also a consideration. The extent to which informal dialogue is occurring within and outside of the cooperative management agreements is unknown.

7.2.3 Incorporation of Traditional Ecological Knowledge

The literature contends that the success of co-management relies on the acceptance of both epistemologies (Usher 1991, Osherenko 1988a). In Alberta, I believe that acceptance is there, when traditional ecological knowledge (TEK) is defined as value-based information used to supplement decision-making. When it is ascribed the status of "science", however, agreement dissipates rapidly. Nonetheless, incorporation of traditional knowledge in terms of discussion at the Steering and Implementation Committee levels, has not been a key focus of the Whitefish Lake and Horse Lake MOUs. Again, this is largely attributable to the fact that devolution and decentralization of wildlife management has not been a thrust of these MOUs.

To this point, the focus of the Whitefish Lake MOU has been on the generation of economic opportunities. There is a clause in the Whitefish Lake Implementation Plan that recognizes "traditional ecological knowledge, scientific knowledge, and economic factors are important considerations in the management of resources" (Implementation Plan for the Co-operative Management Memorandum of Understanding between the Whitefish Lake First Nation and the Government of the Province of Alberta 1997). The Whitefish Lake First Nation is also completing a traditional land use study at this time. The focus of the Horse Lake MOU has been on keeping the process from becoming completely unglued. The Horse Lake First Nation, however, is also completing some traditional land use studies. It is highly probable that the incorporation of traditional knowledge will be an integral part of these agreements as they move to discussion of wildlife management issues at the operational level.

For reasons stated earlier, there has been limited activity in implementing the Little Red River/Tallcree MOU, specifically related to the function of the Board. To this point, the community's efforts have focused on the area of research. The Sustainable

Forest Management Network of Centres of Excellence is conducting a five-year, 2.5 million dollar research program in the Special Management Area (Little Red River Cree Nation 1997). Two specific studies relevant to this topic area include a subsistence hunting study and a cultural inventory. The Little Red River/Tallcree First Nations suggest that the extensive inventory of traditional and scientific knowledge that has been gathered will assist in future planning for sustainable development (Fraser 1997). Thus, when the Board commences work on the cooperative forest management plan, the community will be well positioned in terms of incorporating traditional knowledge.

7.2.4 Economic Development/ Capacity Building

There is little doubt, as discussed earlier in the paper, that economic development needs to occur in First Nations' communities. But the pace has to be comfortable for the community and occur in a manner that does not replicate the bureaucratic centralism and paternalistic approaches of the federal government in the past (Lockhart 1982). The critical question is how native-administered economic development initiatives can continue to provide economic opportunities, while at the same time, guard and enhance social traditions and cultural identities (Lockhart 1982). It is a question that only First Nations will be able to answer. In addition, while there is a need for thoughtful movement of First Nations into the modern economy, the state must be cognizant that this may not necessarily result in a concomitant decrease in First Nations' involvement in the traditional or "bush" economy (Brody 1988).

One of the primary goals of the Alberta MOUs was to encourage economic development. The timber permits allocated in association with the Whitefish Lake and Little Red River/Tallcree MOUs set these agreements apart from the Horse Lake MOU. They give First Nations an additional key interest in the area. One First Nation representative went so far as to say that "the MOU, in the absence of the allocation, would be a worthless document" (Interview Notes, Anonymous). In order for industry to take them seriously, First Nations need a stake in resource

management (Interview Notes, Anonymous). The timber allocations have provided an immediate means to economic development; something the First Nation can, as one person referred to it, "take to the bank" (Interview Notes, Anonymous).

Long-term training was a priority of the Little Red River/Tallcree First Nations. The goals of the Little Red River/Tallcree First Nations were to become self sufficient by creating a sustainable forest-based economy (Interview Notes, Anonymous). Fraser (1997) suggests that cooperative management is working: "First Nations have formed new, productive partnerships with public and private sector groups" (Fraser 1997:61). They verify that jobs and training have been created for their communities. These jobs are related to the resource development sector and are in the area of research (Fraser 1997). The Whitefish Lake community has identified similar positive economic benefits. The Whitefish Lake First Nation credits the MOU as being directly responsible for the success of logging operations and oil and gas developments (Tallman 1995). While the Horse Lake First Nation cannot boast similar results, it has garnered some attention from industry based on the fact that they have a signed cooperative management agreement with Alberta (Interview Notes, Anonymous).

Co-management aids in developing capacity within Aboriginal communities to deal with the administration, business and bureaucracy (NRTEE 1998; Murray 1995). And while capacity building is a focus of the MOUs, it is unclear to what extent community capacity has increased. For example, there is a view among informants that First Nations capacity is increasing. This is witnessed by the increasing number of challenges the government is receiving to existing management policies and procedures (Interview Notes, Anonymous). On the other hand, however, the department is, in the case of the Horse Lake and Little Red River/Tallcree MOUs, dealing primarily with non-native consultants. From that standpoint, the amount of learning taking place at the community level about the cooperative management process is in question (Interview Notes, Anonymous). In addition, First Nations are faced with the challenge of learning to operate using "White man's institutions",

while simultaneously maintaining accountability to their communities within their traditional customs.

One of the negatives for the communities is that many of the individuals who are involved in negotiating and implementing the MOUs also play a significant role in the community in other areas. As such, the threat of "burnout" exists. However, with increased community involvement, and increased training and education levels, the expectation is that the issue of having the same people involved on all committees will be reduced over time.

7.2.5 Public and Third Party Involvement

In all three Alberta agreements, there are provisions included to involve industry. Regarding the Whitefish Lake and Horse Lake MOUs, there has been no direct involvement by the public or industry in the implementation process. However, at this point, involvement by anyone outside the agreements would be of limited value, or may even be potentially damaging. Only when the relationship between the parties unfolds and improves, and issues are focused at the operational level of detail, will the prospect of outside involvement be worthwhile.

Before industry is invited to participate at the Board or Committee level, they should be contacted by the Alberta government. In Manitoba, industry expressed some concerns about the nature of the Split Lake Co-Management Agreement (Robinson and Schaan 1995), because they did not fully understand the agreement, including the authority of the Board. In that case, the province hired a facilitator to "work with and communicate the purpose and powers of the Board to industry" thus eliminating potential problems (ibid.:11).

In the case of the Forest Management Planning Board, industry representatives are members of the Board. The revised draft of the MOU provides for further expansion of Board membership. There are provisions to include additional forest industry representatives, as well as representatives whose interests are the cultural and

traditional needs of both First Nations' communities. Whether the expanded membership will hamper Board functionality remains to be seen. The key will be to ensure that the goal and objectives are clearly articulated through the revised agreement to avoid the uncertainty that industry expressed with the previous MOU.[19]

7.3 Summary

Campbell cautions that "there may be a danger for First Nations in pursuing provincial co-management in preference to formalized land claims or even litigation", because it detracts from the bigger questions about the relationship between First Nations and the rest of Canada (1996:6). This may be true but, clearly, these mechanisms are not designed as a forum to promote the advancement of First Nations' constitutional or legal issues. They offer, without litigation, an opportunity for both parties to work within the existing legal and constitutional framework. Nowhere in the agreements does this preclude First Nations from pursing litigation on natural resource matters. The critical issue rests with developing a clear goal to which all parties to the agreement can agree.

Alberta has not attempted to disguise cooperative management as being at a high level on the Berkes et al. (1991) decision-making hierarchy. Indeed, Alberta is clear that the agreements do not confer proprietary interests in provincial Crown lands, and there is no resultant transfer of jurisdictional decision-making authority. The principal difference between the Alberta agreements and other co-management regimes is that devolution and decentralization of wildlife management is not a priority of the Alberta agreements. Cooperative management is described as a mechanism to consult on environmental and renewable resource issues of mutual interest and concern, thus establishing a formal consultation process.

Upon closer examination, however, the MOUs contain commitments that extend beyond mere "consultation". For example, at the signing of the Whitefish Lake

[19] See Section 7.2.2.1

MOU, Ty Lund, Alberta Minister of Environmental Protection, stated that the agreement "provides the First Nation an opportunity to become directly involved in fisheries and wildlife management" (Lund 1994). Further, the Little Red River/Tallcree MOU identifies the establishment of a Forest Management Planning Board with specific objectives to identify resource use priorities and "special initiatives to address all wildlife and wildlife habitat concerns" (Alberta – Little Red River/Tallcree First Nations 1995:7). The point, if it is not already clear, is that these MOUs go beyond establishing a formal consultation protocol. At the risk of stating the obvious, state managers must read and clearly understand the contents of these MOUs and appreciate the commitments they contain.

Pinkerton (1989) identifies that co-management regimes are likely to develop when the focus of negotiation is on "one simple function", which may later be expanded to other functions. The Whitefish Lake and Horse Lake agreements are broad in scope, dealing with a multitude of issues. Structuring the agreements to be open and flexible has proven to be a double-edged sword. The Horse Lake MOU, for example, does not identify a specific geographic area of interest, leaving it open to interpretation. As well, the MOU simply identifies that consultation and cooperation will occur on matters of mutual interest and concern. As a consequence, the agreements leave First Nations with the expectation that anything can be accomplished and that the MOUs are a priority for implementation. Because of the absence of critical implementation details, both sides are unclear, and therefore the expectations have not been met. Meetings become more difficult as the agreements are broadly interpreted on both sides, resulting in continual checking and re-checking at the political levels. Regional Directors view this as an imposition and an undermining of their level of authority; First Nations view this as not honouring the "spirit and intent" of the agreement.

It should also now be clear that the structure of the Whitefish and Horse Lake agreements is very similar. The only notable difference is that the Whitefish MOU has an associated timber allocation. I believe that this was a significant factor in

advancing the Whitefish Lake MOU and established the groundwork for future success. The timber allocation, and economic development in general, was a primary focus for the Whitefish Lake First Nation. It allowed for the evolution of a working relationship and the development of community capacity before tackling more difficult and contentious issues through the cooperative management committee structure.

The Little Red River/Tallcree MOU stands apart in that it contains provision for the establishment of a Cooperative Management Planning Board. However, a fundamental flaw in the wording of the agreement (discussed in Section 7.1.1) prevented successful implementation of the MOU. As the conflict of interest issue dominated discussions during Board meetings, it became clear that no progress would be made on development of the Forest Management Plan. The First Nations then, focused their efforts on economic initiatives and research (Interview Notes, Anonymous). Upon its expiry in 1998, the MOU was renegotiated with the goal of a developing a simple, clear and consistent MOU that would allow successful implementation. Even though the Board is now focused on a primary function, which is to develop a cooperative renewable natural resource management plan, that task will be far from simple. Whether or not the new Little Red River/Tallcree MOU will be successful is a question that will only be answered in the fullness of time.

The following section will attempt to capture some of the areas where cooperative management in Alberta could be improved.

8.0 Recommendations

Numerous examples of co-management exist in Canada, yet there are none that I am aware of that do not need some alteration or modification. Adjustments to the Alberta MOU process are necessary for cooperative management to succeed. Six recommendations are made that will assist in improving the performance and function of the Alberta MOUs. Improving communication is a theme that runs throughout the recommendations, commencing with improving federal/provincial relationships.

8.1 Improving the Federal/Provincial Relationship

I referred to some of the tensions that exist between the federal and provincial levels of government in the introductory chapter. These tensions are illustrated by the following excerpts heard at various meetings: "Federal and provincial cooperation is the only legally acceptable blood sport left in Canada", and "Federal civil servants are like lawyers – 97% give the rest a bad name". In particular, the provincial government has a concern about federal off-loading of responsibilities, coupled with the issue of uncertainty and lack of clarity regarding service delivery roles.

In 1997, the premiers, territorial leaders, and the leaders from five national Aboriginal organizations met to discuss relationship issues. The communiqué that detailed the key areas of agreement included a statement that "called upon the federal government to recognize their treaty, constitutional and fiduciary obligations towards Aboriginal people, to acknowledge its responsibility to provide programs and services for all Aboriginal people, and to end its policies of off-loading these responsibilities to other orders of government" (Manitoba 1997).

Furthermore, the role of the federal government in the delivery of cooperative management needs to be explored, particularly in the area of capacity building, training and development. After all, it is in the interests of all parties to work together cooperatively.

8.2 Improving Internal State Communications

The MOUs are negotiated between staff representing the First Nation and a two-person team (located in Edmonton, representing the Department of Environmental Protection). The department of Intergovernmental and Aboriginal Affairs plays a peripheral role in the negotiations. The individuals from the First Nations who are involved in the negotiations have typically maintained a role through the implementation phase. This is clearly not the case on the side of the state. Throughout the course of the negotiations, the relevant regional directors are kept apprised of discussions and drafts. That is, operational staff are involved in editing and reviewing drafts of the MOU as it developed, but not directly as part of the negotiation of the MOU. This current practice needs to be re-evaluated.

Consideration should be given to direct involvement of regional provincial government staff on the negotiating team. There are two principal arguments for increasing the regional presence as part of the MOU negotiation. First, regional staff are attuned to operational issues and can offer a local and pragmatic view, including ramifications of MOU contents. The result is a more balanced and realistically implementable MOU, than perhaps would be developed by provincial negotiators that are corporate based, and that do not have a good understanding of local issues. Second, and most important, involving regional provincial government staff directly in MOU negotiations enables the relationship between the likely parties to implement the MOU to develop in the "cradle" of the process. Staff involved in implementation of the MOU, thus, possess understanding of the spirit and intent which underlies MOU content. The result is a smoother transition from negotiation of the MOU to implementation.

The parties to the MOUs need to realize that in signing these agreements, they are making a long-term commitment in time and resources. In their ability as capacity-building mechanisms, I agree with Pinkerton (1989) who felt that for the community to take ownership and assign relative priority to the cooperative management

initiative, they must make a commitment of funding or at a minimum in-kind support. At the same time, department staff need to realize that while the structure identifies that no funding will be provided for implementation of the agreements, the agreement does require a significant commitment of staff resources. In conjunction with some of the proposals outlined previously, a political commitment to adequate resourcing is essential.

8.3 Focus on Review and Implementation of Existing MOUs

The bane of the cooperative management agreements in Alberta has been the lack of their management. While I recognize that cooperative management needs to be community driven, the above issues also point to the need for the government to play a more significant role in managing the cooperative management agreements, including contributing to the agenda. I am reluctant to categorize the government as a "silent partner", however, the meetings and agendas for the agreements are largely dictated by the First Nations communities. Not only does this create a natural "defensive posturing" by government officials as First Nations raise issues, but it can prevent important departmental needs from being served.

Pinkerton (1989) identifies that successful co-management most likely evolves from a conservation crisis because both sides are motivated to "do something". I would argue that "consultation-focused agreements" likely require more management emphasis than co-management developed out of crisis management. In these agreements, it seems, both sides are not necessarily motivated to the same extent they would be in the face of a conservation crisis.

The Alberta MOUs constitute and frame the beginning of a relationship, setting the terms and conditions under which the relationship will develop and flourish. Like most relationships, MOUs take time to develop and require constant maintenance. Hence a long-term commitment is necessary to enable the relationship to develop. Both parties must begin by conceding that the MOUs are only the means to an end, not the end. And without the trust, respect, tolerance and understanding, it is

impossible to move the relationship forward. Without stability and management, the MOUs will continue to stagger along with failure as the end result. More will be said about this issue under recommendation 8.5.

There are significant differences between the two cultures, as pointed out in Chapter 2, Section 2.3.2.2. It has been my experience that cultural awareness training has not proven to be particularly effective (attitudes take a long time to change), but it represents a place to start. It is clear that state managers need to gain an expanded appreciation of the Aboriginal culture. By the same token, First Nations need to gain a better understanding of the "bureaucratic culture". It is not a matter of right and wrong, or one way of doing things over another way; rather, it is about fostering tolerance, understanding and building and maintaining trust. Cultural awareness is a two-way street. First Nations would likely have as much to gain from cultural awareness training as government staff.

One recommendation where the gap in social distance can be bridged is through changing the meeting venues. Perhaps once the implementation process is functional, opportunities would be available to take the meetings to the First Nations communities. Meetings have been held in the communities, but these are typically politically motivated, high-profile meetings that focus on good news events such as MOU signings. Working-level meetings in the community could benefit both parties. They may inspire interest in other community members, create awareness, and assist in building and developing relationships between the community and state managers. In addition, they would improve the awareness of state managers on community issues and community members. As well, there would be some spin-off economic benefits to the community (gas, meals, hotel rooms). The process would need to be on stable ground prior to moving meetings into the community, because meetings are typically open to community members. This seems a reasonable proposition because, for Aboriginal communities, the Band office "serves to mediate between the everyday concerns of local people and the institutionalized responses of the southern state" (Mulvihill and Jacobs 1991:37).

Provincial government representatives have generally adopted a passive role in setting the cooperative management implementation agenda. They are of the view that the MOUs were developed at the request of the First Nations and, as such, First Nations drive the agenda by submitting a list of issues or concerns for discussion. The province needs to play a stronger role in setting the agenda for the implementation committees, and perhaps using cooperative management to meet some of its legal obligations to consult with First Nations. In other cases, the consultation forum could be used to determine the level or form of consultation the First Nation or Tribal Council would like to have on a particular initiative. Specifically, consideration should be given to refocusing the Alberta agreements – to place the emphasis of the MOUs more solidly on consultation.

With limited retooling, the existing agreements could focus where they were intended – on consultation. Part of the concern rests in the name "cooperative management". The name infers joint-management of renewable natural resources, when clearly that is not the intent. Focusing the agreements on consultation may, in fact, reduce the uncertainty by not raising the specter of joint management or co-management and spinning the focus off into discussions of jurisdictional authority. While the focus of the agreements would be consultation and capacity building, co-management could be a by-product of the consultation process, depending on the circumstance. The focus should remain on issues of mutual interest and concern. A framework for developing consultation agreements, adapted from the *Environmental Protection Cooperative Management Framework Document* (Alberta 1996), can be found in Appendix P.

All existing MOUs call for the development of annual status reports. Review and evaluation are critical standard elements of most planning models. As a minimum, the MOUs need to be evaluated regularly to ensure they are meeting the needs of both parties.

8.4 Focus More Effort on Capacity Building

One of the prominent issues raised during the interview sessions was the concern that not enough effort was placed on the area of self-reliance and community readiness (Interview Notes, Anonymous). Whether or not it is part of cooperative management, facilitating capacity building is critical and certainly will require additional focus as we move into the millennium.

The National Round Table on the Environment and the Economy identifies four ways in which to build capacity:

1) Improve the knowledge base to facilitate better decision-making (e.g., support research efforts that incorporate traditional ecological knowledge),

2) Develop policies and strategies that utilize an integrated management approach,

3) Enhance management practices and techniques such as training staff to adapt to new paradigms based on participatory decision-making; and

4) Reform institutions by creating partnerships.

(NRTEE 1998:30)

In addition to the methods listed above, Beckley and Burkosky (1999) suggest using a social indicator approach to assess and measure community sustainability. Their proposed approach suggests the use of subjective and objective indicators to arrive at a level for community capacity (ibid.).

In consideration of the above, there is a need for the Department of Environmental Protection to enter into discussions on an intra-departmental level on the issue of developing community capacity. Agencies such as Economic Development and the Northern Alberta Development Council can likely make a significant contribution to the implementation of cooperative management. Capacity building is an integral part of the mandate of the above organizations. The skills and expertise housed in these two agencies would strengthen the effort currently placed on developing capacity.

8.5 Assign Key Contacts

Studies conducted by McCay (1989) and Dale (1989) support my proposition that successful cooperative management requires an "energy centre" – that is "a dedicated person or group who applies consistent pressure to advance the process" (Pinkerton 1989:29). Dale (1989) recommends engaging a neutral party, agreed to by both sides, who could assist in the cooperative process. He identifies a reluctance to bring in a neutral facilitator in the British Columbia example "based on the fear that such a person would usurp the authority of politicians or stakeholders' representatives" (ibid.:68). Dale claims these fears were unsubstantiated based on his experience in Washington State. The key point is that there would be considerable value to involving "someone whose allegiance is to the *process* of building co-management" (ibid.:68) and achieving results.

Appointing key contacts would help ensure that once commitments made through the signing process have been acted upon, that the discussions and negotiations are then documented, annual reports are submitted, and people are generally doing what they agreed to do. It keeps the momentum going on both sides; otherwise other priorities seem to take over. Establishing a primary point of contact is particularly important for the First Nations community, as the implementation of the MOUs, at this point, is driven by the First Nations.

While the Department of Intergovernmental and Aboriginal Affairs is a signatory to the cooperative management agreements. Perhaps that department could play a stronger role in coordinating, facilitating, and managing the cooperative management process, playing the neutralist position of "honest broker." This role is described as "one who doesn't take sides in local issues but who aims to facilitate the acquisition and free-flow of relevant information to all parties involved in the matter" (Freeman 1978:142). Staff of the department of International and Intergovernmental Relations, Aboriginal Affairs also possess both the political savvy and the cultural sensitivity required to function in the facilitator role. The recommendation will be tested as the Cooperative Management Planning Board established under the Little Red River/Tallcree MOU launches into a new round of discussions.

In addition, there are Regional Coordinators within the Department of Environmental Protection who provide a vital link between the various services of the department and between the political and operational levels. The department could consider restructuring the role of the coordinators so they become a key Aboriginal point of contact in the regions, and use the Environmental Resource Committee meetings as a forum for Aboriginal communities to raise specific issues.

One of the considerations during renegotiations with the Little Red River/Tallcree First Nations, was the importance of linking the MOU to significant Alberta Environment policies. Two significant Alberta policy documents that are consistent with the new MOU are the *Alberta Forest Legacy* (1998) document and *Alberta's Commitment to Sustainable Resource and Environmental Management* (1999).

Alberta's Commitment to Sustainable Resource and Environmental Management describes a sustainable approach to environmental and natural resource management that seeks to ensure environmental health and economic prosperity continue to co-exist. Key features of the approach to sustainable resource management include integrated resource management, public consultation on resource and environmental management decisions, timely decision-making, and simple and direct legislation without reducing current levels of protection (Alberta 1999).

The *Alberta Forest Legacy* document outlines an implementation framework for managing Alberta forests. That strategy extends beyond simply managing for timber alone, but instead considers the forest from a dynamic, holistic perspective. This includes market values such as those for forestry operations, agriculture, recreation and tourism, and non-market values that include traditional use (Alberta 1998). The *Legacy* document also calls for the effective involvement of the public (including Aboriginal peoples), to "ensure that local views, values and needs are balanced and addressed in the planning process" (Alberta 1998:7). In addition, the document recognizes, under the heading "Community Participation", the importance of engaging local elected governments in local planning to "ensure that local views, values and expertise are incorporated into the planning process"(Alberta 1998:8).

In response to these initiatives, the Department of Environmental Protection has established a new area to address implementation of these documents – the Ecological Landscape Division. In coordination with key regional staff, this Division could play a pivotal role in guiding the development of the cooperative management planning process as part of the Little Red River/Tallcree MOU.

8.6 Continue to Explore Policy Options

There is mounting pressure on Alberta to engage Aboriginal communities in meaningful dialogue, particularly where there may be a potential infringement of treaty or existing Aboriginal rights. The cooperative management agreements are not considered by the province as the panacea to solve state/First Nation relations, or to fully meet the legal obligation to consult. Rather, they are one of a number of tools used by the province to discuss environmental and renewable resource issues with First Nations. Other consultation opportunities exist through the Minister's Advisory Committee (made up of a range of stakeholder groups) that advises the Minister on important and emerging issues, the *Understanding with the Chiefs*, and the *MOU with the Grand Council of Treaty 8.* Generally speaking, there are departmental Public Involvement Guidelines, provisions in the Forest Management Agreement process for public involvement, and provisions in the *IRM Strategy*

Document and the *Forest Legacy Document* for Aboriginal involvement. As well, there are requirements through the Alberta Environmental Protection and Enhancement Act to involve those deemed "directly affected" by large-scale projects.

There are two initiatives underway that will assist in rounding out the consultation framework and fill any policy gaps. The first initiative involves the development of an Aboriginal Policy Framework. The approach taken in dealing with Aboriginal issues to this point could be described as "disjointed incrementalism" or "muddling through". The creation of the Department of Intergovernmental and Aboriginal Affairs in 1996 signaled a change in profile of relationships with First Nations, from a social service focus to a government-to-government focus. The proposed Aboriginal Policy Framework will provide some much needed policy guidance as that relationship unfolds.

The proposed framework will set out principles and a government commitment to action to put those principles into effect. The policy document is intended to serve a number of purposes, including enabling the province to address specific issues facing Aboriginal people in Alberta (e.g., socio-economic conditions), identifying the government's present position on key issues (e.g., ownership of Crown land), and improving the current working relationship between Alberta and the Aboriginal communities. The Cabinet approved the proposed Alberta Aboriginal Policy Framework in the fall of 1999 to be vetted with the public, industry, and the Aboriginal community.

The second important initiative deals with compiling an inventory of provincial consultation mechanisms. Once the inventory is complete, an administrative law review and an Aboriginal law review will be completed. The purpose of these assessments is to determine whether the existing mechanisms are suitable to meet the legal obligations to consult with Aboriginal people; that is, to ensure that Aboriginal and treaty rights are not infringed. If it is determined that a specific

mechanism is not meeting the legal obligation to consult, then the intent of the province is to modify the existing mechanism or create a new one.

Coupled with consideration of the five recommendations to improve the cooperative management process, there are two other suggestions that Alberta could consider. The first model that merits examination is the Environmental Officer Program, which is being promoted by the Horse Lake First Nation. The concept involves training and hiring a First Nations Environmental Officer. The model would be that each Tribal Council would have one, thus establishing a forum to discuss environmental management issues. The officers could also assist in dealing with wildlife enforcement issues on reserves, which currently poses a challenge for provincial enforcement officers. An ongoing departmental concern has been whether they are dealing with a First Nations representative who has the support and confidence of the community. In effect, this model embraces the development of a bureaucracy and builds a process for continuity even when elected officials (Chiefs and Councilors) change. Alberta is currently reviewing a draft proposal submitted by the Horse Lake First Nation with the intent of discussing the prospect of a "pilot project". The province should also consider how to involve other agencies in this discussion, including Intergovernmental and Aboriginal Affairs and the federal government.

The second suggestion involves reviving the *Grand Council of Treaty 8 MOU*. A Grand Council of Treaty 8 First Nations-Alberta Relations Committee was established under the Sub-Agreement. The Committee consisted of the Grand Chief of the Grand Council, the Premier of Alberta, the Chairman of the Treaty 8 Committee representing Grand Council Treaty 8 First Nations in Alberta, and the Minister of Intergovernmental and Aboriginal Affairs. In the six years since the signing of the MOU, the Grand Council of Treaty 8 First Nations-Alberta Relations Committee has not met. Moreover, negotiations were underway to establish an Environmental Protection Working Sub-Committee, but that goal was never realized. The use of the Grand Council of Treaty 8 Alberta Relations Committee under the

Grand Council of Treaty 8 MOU seems to have some potential as an information dissemination body. In addition, the Sub-Committees of the MOU have potential as a forum to discuss broad policy and legislation issues.

9.0 Conclusions

The focus of this project was to evaluate the process related to the structure and implementation of Alberta cooperative management agreements. In designing policy mechanisms, more attention needs to be placed on the careful design or process to achieve the desired outcomes, not the outcomes alone (Stroup and Baden 1983). Johnson expresses the view that processes are "critical to producing desired results..." (1981:218). Cooperative management, if it is to enjoy success as a policy mechanism, will require careful scrutiny, evaluation and comparison. Clearly, the evaluation of co-management mechanisms is an important undertaking because little has been done in Canada, based on the literature. More evaluative studies would be beneficial within the Canadian context, as the Treaties create a unique circumstance here.

Across Canada, provincial Ministers of Aboriginal Affairs have concluded: "the social and economic circumstances of Aboriginal peoples and communities require a fundamental commitment to the redistribution of lands and resources to provide an economic base for the effective exercise of Aboriginal governance on a Nation to Nation basis" (Quebec 1998). The pressures that have positioned First Nations and the Alberta government to consider a relationship under a cooperative management structure continue to exist and are intensifying. There are areas or trends that will pose challenges for Alberta as the province moves into the new millennium. This will be discussed in the following sections: the evolving legal framework, demographics, self-regulation, and political correctness.

9.1 The Evolving Legal Framework

Future legal and constitutional challenges and court decisions will likely be the most significant factors in shaping the future direction of First Nations/provincial relations. Specifically in Alberta, the key legal issues facing the province deal with challenges to the intent of the Treaties, challenges to the validity of the Natural

Resources Transfer Agreement, and challenges involving the duty of the Crown to consult on issues that may infringe upon existing Aboriginal and treaty rights. At this time, the Supreme Court of Canada is willing, in fact seems keen, to clarify matters on which politicians are sometimes reluctant to make decisions.

Being directed by litigation seems a foolish gambit, yet it appears that this was the previous strategy used by provincial governments. The decision in *Delgamuukw* caused provincial governments to stand up and take notice.[20] But from the government point of view, the risks on either side of the equation are equally perilous. Government can try to be proactive and develop agreements based on trust and in the spirit of cooperation. They must, however, proceed cautiously, purposefully (pre-set goals and outcomes), and wisely (likely with a team of lawyers analyzing every step), as case law is constantly being challenged and rewritten. Indeed, the government has to walk an exceptionally narrow line between what is legal, what is palatable to the public, and what is acceptable to First Nations.

Alberta, like New Brunswick (Murray 1995), would prefer to work with Aboriginal leaders in developing policy rather than being forced to it by legislation or by the courts. In writing the *Delgamuukw* (1997) decision, Chief Justice Lamer echoed the sentiments of the Royal Commission on Aboriginal Peoples Report (1996), calling for reconciliation with Aboriginal people by the federal government through "good faith negotiations", given the tremendous legal and personal costs of litigation to both parties. Lamer went on to decree that "...the Crown is under a moral, if not a legal, duty to enter into and conduct those negotiations in good faith. Ultimately, it is through negotiated settlements, with good faith and give-and-take on all sides,

---

[20] British Columbia, for example, has developed a set of Consultation Guidelines in response to *Delgamuukw*. It bears pointing out that there are considerable administrative, legal and political differences between Alberta and British Columbia. With the exception of a small portion of Treaty 8 First Nations in North-Eastern B.C., British Columbia is without Treaty. All of Alberta is covered by Treaty. British Columbia has a NDP government. Alberta has a Conservative government. Alberta has an NRTA. B.C. does not have an NRTA. British Columbia is subject to 42 land claims by First Nations wanting to negotiate treaties, with a total land area exceeding 111% of the province (Smith 1995).

reinforced by the judgements of this Court, that we will achieve…the reconciliation of the pre-existence of aboriginal societies with the sovereignty of the Crown. Let us face it, we are all here to stay" (Delgamuukw 1997:113).

9.2 Demographics

First Nations in Alberta are faced with rapid acceleration in population growth (about twice the Canadian average). Further, almost two thirds of Aboriginal people are under 30 years of age, and approximately 35 percent of reserve residents are under the age of 15. In addition, rates of poverty, unemployment (29%, almost 3 times the Canadian rate) and incarceration far exceed the Canadian or Alberta average (Canada 1996a). Generally speaking, the standard of living for First Nations' people is below average (Canada 1996a). These demographics will have two main implications on renewable resource management:

1) increased pressure on subsistence resources, and

2) increased pressure to find long-term meaningful employment.

The Chiefs and Councilors of today tend to be better educated, and have increased access to legal counsel (Interview Notes, Anonymous). In addition, they are younger than they were in the past – they tend to be in their 20's or 30's. On the other hand, politicians in the "dominant society" are typically older – they tend to be in their 40's and 50's. While future relationships between First Nations and the state will continue to be challenged by problems of cross-cultural communication, relationships may also be plagued by cross-generation difficulties.

9.3 Self-Regulation

After a review of co-management regimes across Canada, it is obvious that wildlife conservation, specifically a conservation crisis, was a primary motivator for establishing many co-management regimes. Pinkerton (1989), Swerdfager (1992), and Notzke (1994) corroborate this finding. Certainly, the Alberta agreements were

not motivated by an interest to induce self-regulation in First Nations' communities. Until such a wildlife conservation crisis occurs in Alberta, co-management involving devolution and decentralization of wildlife management authority in unlikely to be seen.

In remote northern communities, resource managers may lack the financial and political resources necessary to achieve compliance of wildlife management through conventional enforcement practices (Osherenko 1988b). In Alberta, perhaps the means are still available, but they cannot be guaranteed for the future. Rettig et al. suggest that, "self-regulation implies the presence of a community in which social pressures could be brought to bear upon individuals who violate rules mutually agreed upon" (1989:286).

There are four issues that lead me to the conclusion that self-regulation by First Nations' communities is a burgeoning issue. These are:

1) the projected increase in populations in First Nations' communities;

2) the preference of First Nations to consume "country foods" (Usher 1987);

3) the significance of wildlife to the First Nation way of life and the traditional economy; and

4) the reluctance to provide information on native wildlife harvesting as First Nations "suspect that numbers may be used against them" (Brody 1988:200).

The Chiefs and Councils are faced with the daunting challenge of trying to achieve the delicate balance of combining economic development/training opportunities with ensuring the maintenance of "traditional lifestyles" for those who wish to continue to pursue them. While it may be true that First Nations share a "special relationship" with the land, their first order of priority, as it is for any economically deprived community, is to put food on the table.

Accordingly, it seems inevitable that wildlife populations will reach a point where surpluses will not be available to meet commercial and sport hunters needs. Moreover, it is very possible that the future needs of Aboriginal communities will far exceed the species population numbers required to meet minimum conservation levels. In the absence of a mechanism that offers meaningful involvement by First Nations, self-regulation may be impossible to achieve and wildlife conservation efforts may be futile.

9.4 Political Correctness

I cannot identify with any certainty the extent to which "political correctness" has impacted or constrained Alberta/First Nation relations. However, the verbal thrust and parry between Stevenson (1997), Berkes and Henley (1997), and Howard and Widdowson (1996, 1997) in *Policy Options*, on the incorporation of traditional knowledge in the environmental impact assessment process in the Northwest Territories caused me to consider the issue of political correctness. Their verbal interaction caused me concern because it demonstrated that it is unpopular to contradict or question First Nations' views. Smith is of the opinion that the issue of political correctness is a serious one: "In our present society, **any** (emphasis in original) proposals directed towards the native community are viewed as the politically right thing to do, whether or not they might be of benefit in the long run. Secondly, much of the academic community and the legal profession, who ought to be expected to raise an impartial voice, are either intimidated by the need to be politically correct or are recipients of the monetary largesse spread widely throughout Canada in furtherance of this costly enterprise" (1995:173).

I raise the spectre of political correctness less as an issue than as information for reflection. The order of the day is a call for openness, tolerance and understanding by academics, politicians, First Nations and bureaucrats – by all people, whether Aboriginal or otherwise.

9.5 Denouement

Berkes suggests that even after some 10 years, "it was too early to pass judgement on the James Bay experience. Co-managers themselves are prone to mood swings, from euphoria to deep depression" (1989:205). In Alberta, the relationship shared between First Nations and the state is in its formative stage. The oldest cooperative management agreement (Whitefish Lake) is only five years into implementation. At this point, it is difficult to predict how successful cooperative management will be in Alberta. Recent experience shows that the results at this point are mixed. The primary benefit of these agreements thus far has been the linkages to economic development. They are essentially a First Nations capacity building exercise. Cooperative management has increased First Nations' ability to use the bureaucratic system to acquire what they believe they are entitled to. As such, First Nations issues have complicated the bureaucratic structure and, in some cases, have also challenged personal beliefs for fair compensation for First Nations.

It is possible for First Nations and Alberta government to meet their needs through cooperative management without compromising each other's needs, but only if expectations about what can be achieved through cooperative management are realistic and mutually understood. Notzke pessimistically points out that, "Another decade or two will go a long way in showing us whether First Nations will be satisfied with their lack of real power, and how far mutual understanding and integration of knowledge and organizational design can be carried in practice " (1994:171). In my view, the literature places too much emphasis on the need for shared decision-making authority. It is unfortunate because it creates the impression that co-management models that are not at the highest level of decision-making hierarchy (Berkes et al. 1991) are without merit. This is of concern because it potentially removes a valuable policy option for both First Nations and resource managers, or worse, it sets up unrealistic and lingering expectations that inhibit implementation of the co-management regime.

Osherenko measures the success of co-management "not in the scope or numbers (of agreements) but in the effectiveness of organizations created to implement them." (1988a:103). As an additional measurement, I would add the satisfaction of the parties to the agreement. If ownership of the process is a measure of success, as Osherenko states, and I believe that it is, then my perception is that all the Alberta agreements have enjoyed some measure of success. For First Nations, cooperative management has proven to be an effective mechanism to become familiar with government processes, to generate economic development, to train staff and develop capacity, to solve petty or significant operational irritations, and above all, to have an increased say in resource management. Having said that, much work needs to be done to improve the MOUs as a vehicle for meaningful consultation.

The situational and cultural differences between First Nations and the Euro-Canadian culture are so great that to bridge the gap seems an almost insurmountable task. My belief is that cooperative management, if understood and properly managed, has the potential to be the "powerful factor" that John McLean spoke of in 1889 – one that can overcome cultural differences and unify all parties in a common direction.

References

Aboriginal Working Group of the Alberta Forest Conservation Strategy. 1995 Aboriginal Perspectives on Forest Conservation: A Report of the Aboriginal Working Group of the Alberta Forest Conservation Strategy. Department of Environmental Protection. June .

Alberta. 1996. Environmental Protection Cooperative Management Framework Document. Department of Environmental Protection, November, 2 pages.

_____. 1998. The Alberta Forest Legacy: Implementation Framework for Sustainable Forest Management. Alberta Environmental Protection. Publication # I-689.

_____. 1999. Alberta's Commitment to Sustainable Resource and Environmental Management. Alberta Environmental Protection.

Alberta – Canada – Whitefish Lake First Nation. 1988. Memorandum of Intent Between Alberta, Canada and the Whitefish Lake First Nation. Unpublished document. Alberta. November 25. 3 pp.

Alberta – Council of Chiefs. 1994. Understanding on First Nations/Alberta Relations. 1994. Council of Chiefs and Premier of Alberta. Unpublished document. November 10. 3 pp.

Alberta – Grand Council of Treaty 8 First Nations. 1993a. Memorandum of Understanding Between Her Majesty the Queen in Right of the Province of Alberta and the Grand Council of Treaty 8 First Nations. Unpublished document. Alberta. February 10. 2 pp.

_____. 1993b. Sub Agreement to the Memorandum of Understanding between the Grand Council of Treaty 8 First Nations and her Majesty in Right of the Province of Alberta. Unpublished document. December 31. 3 pp.

Alberta – Horse Lake First Nation. 1997. Memorandum of Understanding between the Horse Lake First Nation and the Government of the Province of Alberta. Unpublished document. Alberta. June 23, 4 pp.

_____. 1998. Implementation Plan for the Co-operative Management Memorandum of Understanding between the Horse Lake First Nation and the Government of the Province of Alberta. Unpublished document. Alberta. April 21, 3 pp.

Alberta – Little Red River Cree/Tallcree First Nations. 1995. Memorandum of Understanding Between the Little Red River Cree Nation, the Tallcree First

Nation and the Government of Alberta. Unpublished document. Alberta. May 26. 10 pp.

_____. 1996. Letter of Intent: Cooperative Forest Management and Wood Supply Agreements with Little Red River Cree Nation and Tallcree First Nation. 1996. Unpublished document. September 5. 4 pp.

_____. 1999. Memorandum of Understanding Between the Little Red River Cree Nation, the Tallcree First Nation and the Government of Alberta. Unpublished document. Alberta. September 1. 12 pp.

Alberta – Whitefish Lake First Nation. 1994. Memorandum of Understanding Between the Whitefish Lake First Nation and the Government of the Province of Alberta. Unpublished document. Alberta. December 12. 2 pp.

_____. 1994b. Memorandum of Agreement Between Her Majesty the Queen in Right of the Province of Alberta and the Chief and Council of the Whitefish Lake First Nation. Unpublished document. Alberta. December 12. 4 pp.

_____. 1997a. Implementation Plan for the Co-operative Management Memorandum of Understanding between the Whitefish Lake First Nation and the Government of the Province of Alberta. Unpublished document. Alberta. November 21, 5 pages.

_____. 1997b. Whitefish Lake Cooperative Management Implementation Committee Terms of Reference. Unpublished document. November 21. 4 pp.

Alberta Grand Council of Treaty 8 First Nations. 1996. Towards a Sustainable Development Strategy: A Report from the December 16, 1996 Sustainable Development Workshop (Draft). Unpublished report. December 20.

Alberta Native News. 1998. "Treaty 8 and Ottawa begin Treaty Bilateral Process." In Alberta Native News. October. pg. 5.

Arnstein, Sherry A. 1969. "A Ladder of Citizen Participation." In Journal of the American Institute of Planners. 35:216-224.

Babbie, Earl. 1983. The Practice of Social Research: Third Edition. Wadsworth Publishing Company. Belmont, California.

Badger, Jim. 1999. Interview by Author. October 5, Edmonton, Alberta.

Bartlett, Richard H. 1991. Resource Development and Aboriginal Land Rights. Canadian Institute of Resources Law, Calgary.

Beckley, Thomas M. and Tracy Burkosky. 1999. Social Indicator Approaches to Assessing and Monitoring Forest Community Sustainability. Canadian Forest Service. Northern Forestry Centre. Information Report NOR-X-360.

Berkes, Fikret. 1981. "The Role of Self-regulation in Living Resource Management in the North." In M.M.R. Freeman (ed) Proceedings: First International Symposium on Renewable Resources and the Economy of the North. Association of Canadian Universities for Northern Studies and Man and the Biosphere Program. Ottawa. pp. 166-178.

_____. 1987. "Common Property Resource Management and Cree Indian Fisheries in Subarctic Canada." In B.J. McCay and J.M. Acheson (eds), Capturing the Commons. University of Arizona Press. Tucson. pp. 66-91.

_____. 1988. "Environmental Philosophy of the Chisasibi Cree People of James Bay." In M.M.R. Freeman and L.N. Carbyn (eds), Traditional Knowledge and Renewable Resource Management. Boreal Institute for Northern Studies, Occasional Publication No. 23, Edmonton. pp. 7-21.

_____. 1989. "Co-Management and the James Bay Agreement." In Co-Operative Management of Local Fisheries: New Directions for Improved Management and Community Development. Evelyn Pinkerton ed., University of British Columbia Press.

_____. 1997. "New and Not-So-New Directions in the Use of the Commons: Co-Management." In Common Property Resource Digest. 42: 5-7.

Berkes, Fikret, and T. Henley. 1997. "Co-Management and Traditional Knowledge: Threat or Opportunity?: Bridging the Two Solitudes." In Policy Options. March, 1997. pp. 29-31.

Berkes, Fikret, Peter George, and Richard J. Preston. 1991. "Co-management: The Evolution in Theory and Practice of the Joint Administration of Living Resources." In Alternatives. Vol 18, No.2, pp. 12-18.

Berger, Thomas R. 1978. Northern Frontier, Northern Homeland: The Report of the Mackenzie Valley Pipeline Inquiry. Toronto: Lorimer. 1-26.

Beverly-Qamanirjuaq Caribou Management Board. 1999. Beverly-Qamanirjuaq Caribou Management Board Home Page, Available: http:// www.arctic-caribou.com/achieve.html / [1999, November 22].

Brenneis, Kim. 1990. An Evaluation of Public Participation in the British Columbia Ministry of Forests. Master's Thesis, Natural Resources Management Program. Simon Fraser University. Report No. 82.

Brody, Hugh. 1988. Maps and Dreams. Douglas and McIntyre. Vancouver and Toronto.

Brown, D.L. and R. Tandon. 1983. "Ideology and Political Economy in Inquiry: Action Research and Participatory Research." In Journal of Applied Science. 19-3. pp. 277-294.

Busiahn Thomas R. 1989. "The Development of State/Tribal Co-Management of Wisconsin Fisheries." In Co-Operative Management of Local Fisheries: New Directions for Improved Management and Community Development. Evelyn Pinkerton ed., University of British Columbia Press. pp. 170-185.

Calder v. Attorney General of British Columbia. 1973. S.C.R. 313.

Campbell, Tracy. 1996. "Co-Management of Aboriginal Resources." In Information North. Arctic Institute of North America. Volume 22, Number1, March.

Canada. 1969. Statement of the Government of Canada on Indian Policy. Department of Indian Affairs and Northern Development, Ottawa.

_____. 1982a. The Constitution Act, 1982. Canada Act 1982, (U.K.) 1982, c.11 Schedule B.

_____. 1982b. James Bay and the Northern Quebec Agreement Implementation Review. Indian Affairs and Northern Development, Ottawa. February.

_____. 1988. Dene/Metis Comprehensive Land Claim Agreement in Principle. Indian Affairs and Northern Development, Ottawa.

_____. 1996a. Census of Canada. Statistics Canada, Ottawa.

_____. 1996b. "Federal Government Endorses Co-Management." News Release and Backgrounder. Minister of Indian Affairs and Northern Development, Ottawa 1-9613.

_____. 1996c. Canada-Wide Accord on Environmental Harmonization. Canadian Council of Ministers of the Environment. Toronto, Ontario.

_____. 1997a. Gathering Strength: Canada's Aboriginal Action Plan. Indian Affairs and Northern Development, Ottawa.

_____. 1997b. Indian Register. Department of Indian Affairs and Northern Development, Ottawa.

_____. 1998. "Treaty 8 First Nations and Federal Government to Re-Examine Spirit of Treaty 8". News Release. Canada. Indian Affairs and Northern Development, 1-9898. October 15.

Cardinal, Harold. 1969. The Unjust Society: The Tragedy of Canada's Indians. M.G. Hurtig Limited. Edmonton.

Caro, Francis G. (ed) 1971. Readings in Evaluation Research. Russell Sage Foundation. New York.

Clifford, Gordon. 1994. "Straws in the Wind, The Multistakeholder Process in Consensus-Building: Guiding Principles." In Optimum. Autumn. pp. 44-49.

Cohen, Fay G. 1989. "Treaty Indian Tribes and Washington State: The Evolution of Tribal Involvement in Fisheries Management in the U.S. Pacific Northwest". In Co-Operative Management of Local Fisheries: New Directions for Improved Management and Community Development. Evelyn Pinkerton ed., University of British Columbia Press. pp. 37-48.

Cole, Stephen. 1970. The Sociological Method. Second Edition. Rand McNally College Publishing Company, Chicago.

Dale, Norman. 1989. "Getting to Co-Management: Social Learning in the redesign of Fisheries Management." In Co-Operative Management of Local Fisheries: New Directions for Improved Management and Community Development. Evelyn Pinkerton ed., University of British Columbia Press. pp. 49-72.

Delgamuukw v. British Columbia. 1997. 3 S.C.R. 1010.

Devereux, Stephen and John Hoddinott. (eds). 1993. Fieldwork in Developing Countries. Lunne Rienner Publishers. Boulder, Colorado.

Doubleday, Nancy C. 1989. "Co-Management Provisions of the Inuvialuit Final Agreement." In Co-Operative Management of Local Fisheries: New Directions for Improved Management and Community Development. Evelyn Pinkerton ed., University of British Columbia Press. pp. 209-227.

Erasmus, Peter and Geneva Ensign. 1991. A Practical Framework for Community Liaison Work in Native Communities. Justin Publishing, Brandon, Manitoba.

Feit, Harvey A. 1986. "Hunting and the quest for power: the James Bay Cree and Whiteman in the Twentieth Century". In R.B. Morrison and C.R. Wilson (eds), Native Peoples: the Canadian Experience. McClelland and Stewart, Toronto. pp. 171-207.

_____. 1988. "Self-Management and State Management: Forms of Knowing and Managing Northern Wildlife." In Traditional Knowledge and Renewable Resource Management in the Northern Regions. Milton M.R. Freeman and Ludwig N. Carbyn eds. Edmonton: Boreal Institute for Northern Studies. Occasional Publication No 23, pp.72-91.

Ferguson, Theresa A., and Clayton Burke. 1992. "Aboriginal Communities and the Northern Buffalo Controversy." In Buffalo. John E. Foster, Dick Harrison and I.S. MacLaren eds. Alberta Nature and Culture Series, The University of Alberta Press. Pp. 189-206.

Finsterbusch, Kurt, and Annabelle B. Motz. 1980. Social Research for Policy Decisions. Wadsworth Inc. Belmont California.

Fort McKay First Nation. 1995. Fort McKay in 2005: A Vision of Co-Existence – Building Bridges to Land Stewardship. December. Unpublished report.

Fraser, Natalie. 1997. "Little Red River Cree Nation – Tallcree First Nation Co-Management Agreement: Working Towards Self-Sufficiency." In First Nations Effective Practices: Getting Things Done in Aboriginal Communities, Businesses and Organizations. Department of Indian Affairs and Northern Development, Canada. June.

Freeman, Milton. 1978. "Anthropologists and Policy Relevant Research: The Case for Accountability." Reprinted from Applied Anthropology in Canada. Proceedings No. 4. Canadian Ethnology Society, Hamilton. 1977. pp. 139-166.

_____. 1985. "Appeal to Tradition: Different Perspectives on Arctic Wildlife Management". In Native Power: The Quest for Autonomy and Nationhood of Indigenous Peoples. Jenn Brøsted, Jens Dahl, Andrew Gray et al. (eds). Universitesforlaget AS. Bergen, Norway. pp. 265-281.

_____. 1989. "The Alaska Eskimo Whaling Commission: Successful Co-Management under Extreme Conditions." In Co-Operative Management of Local Fisheries: New Directions for Improved Management and Community Development. Evelyn Pinkerton ed., University of British Columbia Press. pp. 137-153.

Fumoleau, René. 1973. As Long as This Land Shall Last. McClelland and Stewart Limited. Toronto.

Gibson, Virginia V. 1996. Resources, Conflict, and Culture: The Sour Gas Plant Dispute Between Unocal Canada and the Lubicon Cree Nation. Eco-Research Chair: Environmental Risk Management Research Report, University of Alberta, Edmonton. RR 96-3.

Gold, Raymond L. 1969. "Roles in Sociological Field Observation." In Issues in Participant Observation. George J. McCall and J. L. Simmons (eds.). Reading, MA: Addison-Wesley, pp. 30-39.

Graham, Katherine, Carolyn Dittburner and Frances Abele. 1997. "Soliloquy and Dialogue: Overview of Major Trends in Public Policy Relating to Aboriginal Peoples." Royal Commission on Aborigial Peoples. Volume 1. Research Reports – Public Policy and Aboriginal Peoples, In For Seven Generations [CD-ROM], Libraxus Inc.

Guerin v. The Queen. 1984. 2 S.C.R. 335.

Guyette, Susan. 1983. Community Based Research: A Handbook for Native Americans. Los Angeles: American Indian Studies Centre, University of California.

Halfway River First Nation v. British Columbia (Ministry of Forests). 1997. 4 C.N.L.R. 45.

Hamilton A.C. 1995. Canada and Aboriginal Peoples: A New Partnership. Report of the Hon. A.C. Hamilton, Fact Finder for the Minister of Indian Affairs and Northern Development, Ottawa: Minister of Public Works and Government Services Canada.

Hardin, Garrett. 1969. "The Tragedy of the Commons." In Science 162: pp. 1243-1248.

Haugh, Alison. 1994. "Balancing Rights, Powers, and Privileges: A Window on Co-Management Experience in Manitoba." In Northern Perspectives. Vol. 22 #2-3. pp. 28-32.

Hawthorn, Harry B., H.A.C. Cairns, and Marc A. Trembly. 1967. A Survey of the Contemporary Indians of Canada: A Report on Economic, Political, Educational Needs and Policies. H.B. Hawthorn (ed). Ottawa: Indian Affairs Branch.

Himelfarb, Alexander, and C. James Richardson. 1982. Sociology for Canadians: Images of Society. McGraw-Hill Ryerson Limited. Toronto.

Hobson, George. 1992. "Traditional Knowledge is Science." In Northern Perspectives. 20 (1): 2.

Howard, A. and F. Widdowson. 1996. "Traditional Knowledge Threatens Environmental Assessment." In Policy Options. November, pp. 34-36.

Howard, A. and F. Widdowson. 1997 "Traditional Knowledge Advocates Weave a Tangled Web." In Policy Options. April, pp. 46- 48.

Howes, Carol. 1999. "Native Bands Suing Over 1930 Resources Deal." In The National Post. March 12, pg. C1,6.

Imai, Shin, Katharine Logan and Gary Stein. 1993. Aboriginal Law Handbook. Carswell, Scarborough, Ontario.

Indian Chiefs of Alberta. 1970. Citizens Plus: A Presentation by the Indian Chiefs of Alberta to Right Honourable P.E. Trudeau, Prime Minister, and the Government of Canada (Edmonton?).

Ivanitz, Michele J. 1996. Co-Management of Resources Between Whitefish Lake First Nation and the Province of Alberta: Social Forestry and Local-Global Articulations. Ph D. Thesis. University of Alberta. Department of Anthropology.

Johnson, Bruce. 1981. In Bureaucracy vs. Environment. John Baden and Richard L. Stroup, eds. University of Michigan Press: Ann Arbour. pg. 218.

Kachuk, Brad. 1999. Interview by Author. March 18.

Kofinas, Gary. 1993. "Subsistence Hunting in a Global Economy." In Making Waves. Vol. 4, No 3. August.

Kwasniak, Arlene J. 1998a. "Supreme Court Clarifies Aboriginal Title an Use Rights." In News Brief-Environmental Law Centre. Vol.13 No. 2.

_____.1998b. "Timber Permit Quashed to Protect Treaty Rights." In News Brief-Environmental Law Centre. Vol.13 No. 3.

Lambrou, Yianna. 1996. Benefit Sharing of Indigenous Knowledge. Draft. Ottawa. Unpublished report. September 28.

Leonard, David W. 1995. Delayed Frontier: The Peace River Country to 1909. Detselig Enterprises Ltd. Calgary.

Lindbloom, Charles E. and David K. Cohen. 1979. Usable Knowledge: Social Science and Social Problem Solving. Yale University Press, New Haven.

Little Red River Cree Nation. 1991. A Model for Joint Planning and Shared Management of Natural Resources by Aboriginal People. Unpublished report.

_____. 1997. Cooperative Management Synopsis. Unpublished report. November.

Lockhart, Alexander. 1982. "The Insider-Outsider Dialectic in Native Socio-Economic Development: A Case Study in Process Understanding." In The Canadian Journal of Native Studies. Special Issue, Vol.2 (1) pp. 159-168.

Lund, Ty. 1994. Speech to Announce Signing the Whitefish Lake Memorandum of Understanding. Alberta Environmental Protection. December 12.

MacPherson, A.H. 1981. "Commentary: Wildlife Conservation and Canada's North." In Arctic. Vol. 34, No. 2, June. pp. 103-107.

MacPherson, Seonaid. 1995. "Saskatchewan Environment and Resource Management: Speaking Notes." Arctic Institute of Canada. Conference. Building Bridges: The Process of Co-Management. University of Calgary, February 15, 13 pp.

Madill, Dennis F.K. 1986. Treaty Research Report, Treaty Eight. Treaties and Historical Research Centre, Indian and Northern Affairs.

Mair, Charles. 1908. Through the MacKenzie Basin. Toronto: William Biggs.

Manitoba. 1997. Press Release . Premiers, Territorial Leaders and Leaders of the Five National Aboriginal Organizations. Winnipeg, November 18.

Manitoba Indian Brotherhood. 1971. Wahbung – Our Tomorrows. (Winnipeg?).

Masiuk, Andrew. 1999. Interview by Author. Edmonton. April 7.

McCay, Bonnie J. 1989. "Co-Management of a Clam Revitalization Project: The New Jersey "Spawner Sanctuary" Program." In Co-Operative Management of Local Fisheries: New Directions for Improved Management and Community Development. Evelyn Pinkerton ed., University of British Columbia Press. pp.103-124.

McLean, John. 1889. The Indians of Canada: Their Manners and Customs. William Briggs, Toronto. Reprinted by Coles Publishing Company, Toronto, 1970.

Mercredi, Ovide. 1997. Undated Letter to the Honourable Sergio Marchi. Assembly of First Nations, Ottawa. Alberta File 2120-002 X01.

Morgan, James. 1993. Cooperative Management of Wildlife in Northern Canadian National Parks. Master's Thesis, Faculty of Environmental Design, University of Calgary.

Mulvihill, Peter R. and Peter Jacobs. 1991. "Towards New South/North Development Strategies in Canada." In Alternatives. Vol. 18. No. 2. pp. 34-39.

Murray, Allan. 1995. Involvement of Aboriginal People in Environmental and Renewable Resources Management in Canada. Vol.1: A National Survey, Allan Murray and Associates. Regina, Saskatchewan. October.

National Forest Strategy Steering Committee. 1992. Sustainable Forests: A Canadian Commitment. Hull, PQ: Canadian Council of Forest Ministers. Canada.

National Round Table on the Environment and Economy (NRTEE). 1998. Sustainable Strategies for Oceans: A Co-Management Guide. Renouf Publishing Co. Ltd., Ottawa.

"Natural Resource Transfer Agreement". 1930.

Neuman, William L. 1991. Social Research Methods: Qualitative and Quantitative Approaches. Allyn and Bacon, Boston.

Notzke, Claudia. 1994. Aboriginal Peoples and Natural Resources in Canada. Captus University Publications, Lethbridge.

O'Reilly, James. 1988. "Indian Land Claims in Quebec and Alberta." In Governments in Conflict? Provinces and Indian Nations in Canada. Anthony Long and Menno Boldt eds. in association with Leroy Little Bear. University of Toronto Press, Toronto.

Osherenko, Gail. 1988a. "Wildlife Management in the North American Arctic: A Case for Co-Management." In Traditional Knowledge and Renewable Resource Management in the Northern Regions. Milton M.R. Freeman and Ludwig N. Carbyn eds. Edmonton: Boreal Institute for Northern Studies. Occasional Publication No. 23. pp. 92-104.

_____. 1988b. "Can Co-Management Save Arctic Wildlife?" In Environment. Vol. 30, No. 6. July/August. pp. 7-13, 29-34.

_____. 1988c. Sharing Power with Native Users: Co-Management Regimes for Native Wildlife. Ottawa: Canadian Arctic Resources Committee. Working Paper No. 5.

Pinkerton, Evelyn. 1989. "Introduction: Attaining Better Fisheries Management Through Co-Management – Prospects, Problems and Propositions." In Co-Operative Management of Local Fisheries: New Directions for Improved Management and Community Development. Evelyn Pinkerton ed., University of British Columbia Press. pp. 3-33.

_____.1993. "Resource Co-Management: CED Takes Root in the Cooperative Management of Natural Resources" In Making Waves. Vol.4, No 3. August. pp. 1-2.

Price, Richard. ed. 1979. The Spirit of the Alberta Indian Treaties. Montreal: Institute for Research on Public Policy. Toronto. Distributed by Butterworth & Co. (Canada).

Quebec. 1998. Press Release. Aboriginal Summit, Quebec City. May 19.

Ransom, James W. 1997. First Nations Environmental Framework: Draft Proposal. Environment Unit, Assembly of First Nations.

Recherches Amerindiennes au Quebec. 1988. James Bay and Northern Quebec: Ten Years After. Sylvie Vincent and Gary Bowers eds. Montreal. Diffusion Prologue.

Regina v. Sparrow. 1990. 1 S.C.R. 1075.

Rein, M. and D. Schöen. 1986. Frame-Reflective Policy Discourse. Unpublished manuscript. Massachusetts Institute of Technology, Cambridge Massachussetts.

Rettig, Bruce R., Fikret Berkes, and Eveyln Pinkerton. 1989. "The Future of Fisheries Co-Management: A Multi-Diciplinary Assessment." In Co-Operative Management of Local Fisheries: New Directions for Improved Management and Community Development. Evelyn Pinkerton ed., University of British Columbia Press. pp. 273-289.

Robinson, Gary, and Gary Schaan. 1995. Land and Resources Joint Management Arrangements. Robinson Consulting and Associates and Gary Schaan Consulting. Unpublished report.

Ross, Rupert. 1992. Dancing with a Ghost: Exploring Indian Reality. Octopus Books, Markham, Ontario.

"Royal Commission on Aboriginal Peoples (RCAP)". 1996. Restructuring the Relationship. Ottawa: Report of the Royal Commission on Aboriginal Peoples. Vol. 2, Part Two.

Royal Proclamation of October 7, 1763. R.S.C. 1985, App. II, No. 1.

"Schedule to the Alberta Natural Resources Act". 1930. An Act Respecting the Transfer of the Natural Resources of Alberta. Chapter 21. Assented to April 3, 1930.

Schlesinger, Arthur M. Jr. 1978. Robert Kennedy and His Times. Houghton Mifflin Company. Boston.

Scott, William G. 1967. Organization Theory: A Behavioural Analysis for Management. Richard D. Irwin, Inc. Homewood. Illinois.

Sharvit, Cheryl, Michael Robinson, and Monique M. Ross. 1999. Resource Development on Traditional Lands: The Duty to Consult. Occasional Paper #6. Canadian Institute of Resources Law, University of Calgary. Calgary. February. 26 pp.

Smith, Mary L., and Gene V. Glass. 1987. Research and Evaluation in Education and the Social Sciences. Prentice-Hall. Englewood Cliffs, New Jersey.

Smith, Melvin H. 1995. Our Home or Native Land? Friesen Printers. Manitoba.

Spencer, Metta. 1985. Foundations of Modern Sociology. Fourth Edition. Prentice Hall Inc. Scarborough. Ontario.

Stevenson, M.G. 1997. "Ignorance and Prejudice Threaten Environmental Assessment." In Policy Options. March. pp. 25-28.

Strauss, Anselm. 1987. Qualitative Analysis for Social Scientists. Cambridge University Press. New York.

Stroup, Richard L. and John A. Baden. 1983. Natural Resources: Bureaucratic Myths and Environmental Management. Ballinger Publishing Company. Cambridge, Massachusetts.

Swerdfager, T.M. 1992. Cooperative Wildlife Management: A Discussion Paper. Prepared for the Canadian Wildlife Service.

Tallman, Eddie. 1995. Speech to the Canadian Association of Petroleum Producers. Edmonton. October 31.

The Teslin Tlingit Council Self Government Agreement. 1993. Published under the authority of the Honourable Tom Siddon, Minister of Indian Affairs and Northern Development.

Usher. 1986. "Devolution of power in the Northwest Territories: Implications for Wildlife." In Native People and Renewable Resource Management. Edmonton. Alberta Society of Professional Biologists. pp. 69-80.

_____. 1987. "Indigenous Management Systems and the Conservation of Wildlife in the Canadian North." In Alternatives. Vol. 14:1. pp. 3-9.

_____. 1991. "Some Implications of the Sparrow Judgement for Resource Conservation and Management." In Alternatives. Vol. 18:2. pp. 20-21.

_____. 1993. "The Beverly-Kaminuriak Caribou Management Board: An Experience in Co-Management." In Traditional Ecological Knowledge: Concepts and Cases. J.T. Inglis ed. Canadian Museum of Nature, International Program on Traditional Ecological Knowledge and International Development Research Centre. Ottawa. pp. 111-120.

Watkins, Mel. 1977. "From Underdevelopment to Development." In Dene Nation – The Colony Within. Mel Watkins ed. University League for Social Reform. University of Toronto Press. Toronto and Buffalo. pp. 84-99.

Webb, Jim. 1999. Interview by Author. March 3.

Whitefish Lake First Nation. 1993. Proposal: The Utikima Lake Special Management Area – A Joint Planning and Shared Management Demonstration Project. Unpublished document. June 10. 14 pp.

Witty, Dave. 1994. "The Practice Behind the Theory: Co-Management as a Community Development Tool." In Plan Canada. January.

Wolf Leg, Alan Jr. 1995. "Inventing Our Future." In Focusing Our Resources: Forum Papers. Paper #1A. First Nations Conferences Inc.

Appendix A

Questions for Key Community Participants

How were things before the Treaty and Entitlement (TLE)/Memorandum of Understanding (MOU)?

What can you tell me about the MOU?

What were your expectations of the MOU?

Has the MOU helped the community/government department? In what areas? How?

In your view, has the MOU been successful? How?

Was the MOU directly accountable for any successes/failures?

In your view, has the MOU failed? How?

Have your expectations of the MOU process been reached? How?

In your opinion, should the MOU process be modified? In what way?

What has contributed to positive outcomes?

What has contributed to negative outcomes?

What should/could be done differently?

Is self-sufficiency/self-reliance an overall goal? How is it defined?

How do you define consultation?

Are you being consultation more on natural resource management?

Additional Questions for Government Participants

How do you define the MOU? What are your expectations of it?

How does it fit within the broader Alberta policy context?

What are the benefits/shortcomings?

How can the process be improved? Administrative changes?

What is the provincial government's role regarding the issue of Aboriginal self-sufficiency/ self-reliance?

How does the province define success in these agreements?

What is overall provincial government policy direction on resource management with First Nations?

Are the MOUs helping to meet Alberta's consultation obligations?

Have other approaches been considered?

When did Aboriginal involvement in resource management with First Nations begin? Was it triggered by a certain, action/activity?

Appendix B

Memorandum of Understanding Between Her Majesty the Queen in Right of the Province of Alberta and the Grand Council of Treaty 8 First Nations, 1993

MEMORANDUM OF UNDERSTANDING DATED THIS 10 DAY OF FEBRUARY, 1993.

BETWEEN

HER MAJESTY THE QUEEN, in right of the Province of Alberta, (referred to as Alberta)

AND

THE GRAND COUNCIL OF TREATY 8 FIRST NATIONS, (referred to as the Grand Council)

WHEREAS the Grand Council and Alberta wish to establish a means of consulting with each other regarding new and existing policies, programs and services;

AND WHEREAS Alberta and the Grand Council recognize the special relationship between First Nations and Canada;

AND WHEREAS Alberta recognizes the traditional and historical rights of First Nations referred to in Section 35 of the *Constitution Act, 1982*;

THEREFORE Alberta and the Grand Council agree as follows.

1. Nothing in this agreement, or resulting from this agreement, is intended to abrogate or derogate from any aboriginal or treaty rights referred to in Section 35 of the *Constitution Act, 1982*.

2. Nothing in this agreement or resulting from the agreement is intended to prejudice any constitutional or self-government discussions in which the parties may engage.

3. Alberta and the Grand Council agree to consult with each other in the development of policies, programs, and services in areas of interest or concern to either of the parties.

...2

4. a) Alberta and the Grand Council agree that a process or processes for consultation in the areas for discussion will be determined by the Grand Council and the appropriate Minister or Ministers responsible for the areas of discussion, within one year of this agreement coming into force.

   b) Process(es) entered into in accordance with 4(a) will include mechanisms for consultation involving both elected and appointed officials.

   c) Alberta and the Grand Council may, in writing, amend the process(es) established pursuant to this clause.

5. Either the Grand Council or Alberta may terminate this agreement upon six (6) months written notice.

WITNESS

PREMIER, GOVERNMENT OF ALBERTA

WITNESS

GRAND CHIEF
OF THE GRAND COUNCIL
OF TREATY 8 FIRST NATIONS

A RESOLUTION CONCERNING RELATIONSHIPS BETWEEN THE GRAND COUNCIL OF TREATY 8 FIRST NATIONS AND THE GOVERNMENT OF ALBERTA

WHEREAS the Government of Alberta wishes to enhance relations with First Nations located in Alberta;

AND WHEREAS the Grand Council of Treaty 8 First Nations has indicated that it wishes to enhance relations with the Government of Alberta;

BE IT RESOLVED THAT the Legislative Assembly urge the Government of Alberta to:

1. enter into an agreement with the Grand Council of Treaty 8 First Nations to establish a process for dialogue to facilitate consultation regarding policies, programs and services affecting the First Nations located in Alberta who are signatories to Treaty 8;

2. ensure that any agreements resulting from this resolution will be consistent with the provisions of the Constitution of Canada and, in particular, shall not be construed so as to abrogate or derogate from any Aboriginal or treaty rights of First Nations or their members;

3. ensure that this resolution and agreements resulting from it do not diminish the special relationship First Nations have with the Government of Canada; and

4. indicate their willingness, upon request, to enter into similar processes of dialogue with treaty organizations which represent, respectively, the First Nations located in Alberta who are signatory to Treaty 6 and Treaty 7.

Appendix C

Sub-Agreement to the MOU between the Grand Council of Treaty 8 First Nations and her Majesty in Right of the Province of Alberta, 1993

SUB AGREEMENT

TO

THE MEMORANDUM OF UNDERSTANDING

Between

THE GRAND COUNCIL OF TREATY 8 FIRST NATIONS
(representing Grand Council Treaty 8 First Nations located in Alberta)

And

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ALBERTA

WORKING PROCEDURES

WHEREAS the Grand Council of Treaty 8 First Nations and the Province of Alberta have entered into an historic Memorandum of Understanding whereby each expressed the wish to establish a means of consulting with each other regarding new and existing policies, programs and services;

AND WHEREAS the Memorandum of Understanding requires the creation of a process or processes for consultation in the areas for discussion;

THEREFORE the parties agree to the following being the initial process direction as a Sub-Agreement under the Memorandum of Understanding to be entitled "Working Procedures":

1.0 TREATY 8 FIRST NATIONS - ALBERTA RELATIONS COMMITTEE

1.1 A Treaty 8 First Nations - Alberta Relations Committee is established composed of the Grand Chief of the Grand Council, the Premier of Alberta (or his designate), the Chairman of the Treaty Committee representing Grand Council Treaty 8 First Nations located in Alberta, and the Alberta Minister Responsible for Native Affairs. The Grand Chief and the Minister Responsible for Native Affairs will Co-Chair the Committee.

1.2 The Grand Chief and the Alberta Minister Responsible for Native Affairs will invite appropriate members of the Grand Council and Provincial Ministers to sit on the Treaty 8 First Nations - Alberta Relations Committee, based upon the agenda of the Committee meetings.

2.0 COMMITTEE MEETING ARRANGEMENTS AND FUNCTIONS

2.1 The Treaty 8 First Nations - Alberta Relations Committee will meet at least twice a year or as required to: explore generic matters such as government to government relations and First Nations government; determine an agenda of items that are of mutual concern; and, review the progress of Working Sub-Committees that have been established. The first meeting of the Committee will be on or before December 15, 1993, or as mutually agreed upon.

2.2 In support of the Treaty 8 First Nations - Alberta Relations Committee, Alberta will provide a recording secretary, and each party may assign essential technical representatives as agreed by the Co-Chairs to provide assistance to the Committee.

2.3 Upon determination of the agenda, the Treaty 8 First Nations - Alberta Relations Committee will refer the items to the appropriate Provincial Minister (s), and to the appropriate Treaty 8 First Nations Chief (s) and/or First Nations Organization, as agreed upon.

3.0 WORKING SUB-COMMITTEES

3.1 With the assistance of the Treaty 8 First Nations - Alberta Relations Committee, and through mutual agreement, the appropriate Minister (s) and elected representative (s) of the Grand Council will establish, as necessary, Working Sub-Committees to: develop terms of reference, examine specific agenda items and prepare work plans including time frames within which recommendations for the resolution of issues will be presented to the Treaty 8 First Nations - Alberta Relations Committee, and identify resources required. Working Sub-Committees will be composed of representatives of the Grand Council and senior departmental personnel, but may not exceed five (5) representatives from each party.

3.2 The functioning of each Working Sub-Committee will be governed by a specific sub-agreement to the M.O.U., or as mutually agreed, and as approved by the Treaty 8 First Nations - Alberta Relations Committee.

3.3 The Treaty 8 First Nations - Alberta Relations Committee or a Working Sub-Committee may secure such assistance or input of other governments or First Nations governments or organizations as is necessary and desirable.

3.4 Each Working Sub-Committee will provide reports to each meeting of the Treaty 8 First Nations - Alberta Relations Committee.

4.0 OTHER

4.1 Nothing in this Sub-Agreement shall prejudice or interfere with any other discussions or consultations that may take place between the Alberta government and individual First Nations or Tribal Councils or Associations in the Treaty 8 area.

4.2 The Grand Council and Alberta may, in writing, amend this Sub-Agreement.

4.3 Either the Grand Council or Alberta may terminate this Sub-Agreement upon six (6) months written notice.

5.0 SIGNATURES

This Sub-Agreement to the M.O.U. on working procedures is signed this 31st day of December, 1993 in the City of Edmonton.

Grand Chief Tony Mercredi

Premier Ralph Klein

Chief Bernie Meneen

Honourable Mike Cardinal
Minister Responsible for Native Affairs

Appendix D

Understanding on Alberta/First Nations Relations, 1994

AN UNDERSTANDING
ON
FIRST NATIONS/ALBERTA RELATIONS

BETWEEN

THE CHIEFS OF THE FIRST NATIONS IN ALBERTA, (referred to as the Council of Chiefs)

AND

HER MAJESTY THE QUEEN, in right of the Province of Alberta (referred to as Alberta)

WHEREAS The Council of Chiefs wish to form an Understanding with Alberta to action Government to Government discussions on issues of mutual interest or concern affecting Treaty First Nations, of which jurisdiction and authority are of paramount importance to the represented Treaty First Nations;

AND WHEREAS Alberta recognizes the special relationship between Treaty First Nations and the Crown in Right of Canada;

AND WHEREAS the Council of Chiefs and Alberta are concerned about the changing relationship between Treaty First Nations and Canada;

AND WHEREAS Alberta recognizes the Aboriginal and Treaty rights of First Nations referred to in section 35 of the *Constitution Act, 1982*, notwithstanding ongoing discussions respecting bilateral agreements between First Nations in Treaties 6, 7, and 8 and the Crown in Right of Canada;

AND WHEREAS Nothing in this Understanding is intended to abrogate or derogate from the Aboriginal, Treaty or inherent rights of any First Nation in Alberta;

THEREFORE The Council of Chiefs and Alberta agree as follows:

1. The Council of Chiefs and Alberta agree to discuss issues of mutual interest or concern, of which jurisdiction and authority affecting Treaty First Nations are of paramount importance to the represented Treaty First Nations.

2. a) The Council of Chiefs and Alberta agree that process(es) for discussion in the areas of interest and concern will be determined by the Council of Chiefs and the appropriate Minister(s) responsible for the areas of interest or concern within one year of this agreement coming into force.

   b) Process(es) entered into in accordance with 2(a) will include mechanisms for discussion involving both elected and appointed officials and, will be guided by the development of a sub-agreement on working procedures to be executed as soon as possible.

   c) The Council of Chiefs and Alberta may, in writing, amend the process(es) established pursuant to this clause by mutual consent.

3. This Understanding is not intended, neither shall it be construed as modifying any Treaty, nor is it intended as creating a new Treaty, nor a Treaty Making process whatsoever.

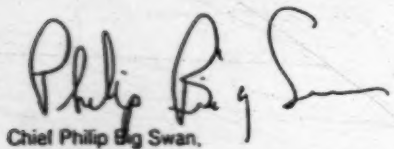
4. Nothing in this initial Understanding, or resulting from this Understanding is intended to prejudice agreements, financial arrangements, protocols, M.O.U.'s or discussions, whether existing or proposed between First Nations, Alberta and Canada, and other legal entities, either collectively or individually.

5. Either the Council of Chiefs or Alberta may terminate this Understanding upon six (6) months written notice.

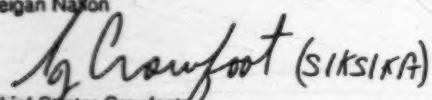
6. Any individual First Nation which is not signatory to this initial Understanding, can opt out of participating in discussions pursuant to this Understanding, if that First Nation considers this Understanding is not in its best interest. Subsequently, any individual First Nation can opt into this Understanding by consenting, through signature, to the terms as herein stated.

Duly executed by signature on this 10th *day of* November, 1995.

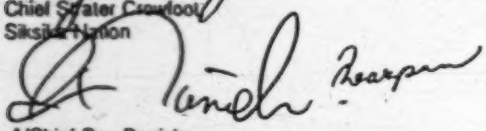
Treaty 7 (Alberta)



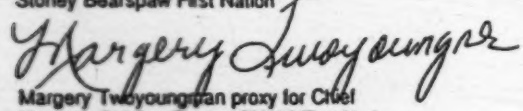
Chief Philip Big Swan,
Peigan Nation



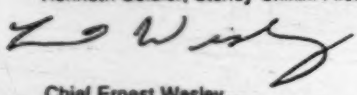
Chief Strater Crowfoot,
Siksika Nation



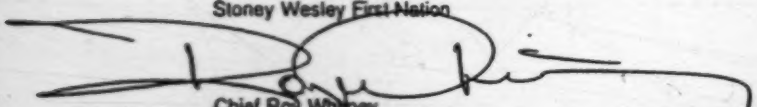
A/Chief Rex Daniels,
Stoney Bearspaw First Nation



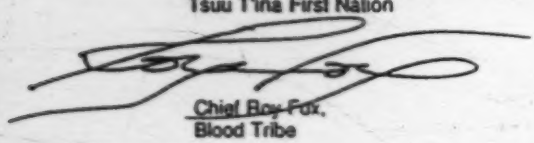
Margery Twoyoungman proxy for Chief
Kenneth Soldier, Stoney Chiniki First Nation



Chief Ernest Wesley,
Stoney Wesley First Nation

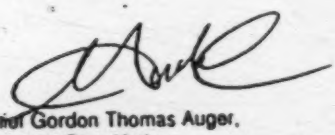


Chief Roy Whitney,
Tsuu T'ina First Nation

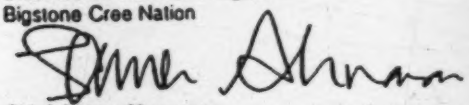


Chief Roy Fox,
Blood Tribe

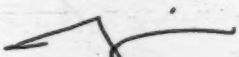
Treaty 8 (Alberta)



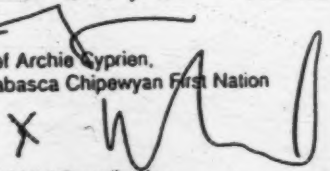
Chief Gordon Thomas Auger,
Bigstone Cree Nation



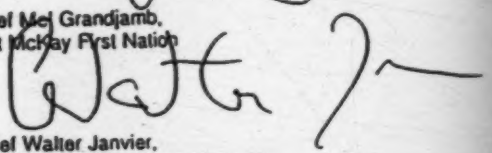
Chief James Ahnassay,
Dene Tha First Nation



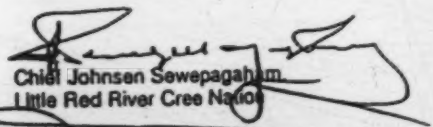
Chief Archie Cyprien,
Athabasca Chipewyan First Nation



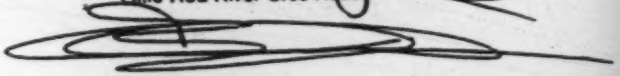
Chief Mel Grandjamb,
Fort McKay First Nation



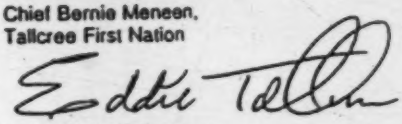
Chief Walter Janvier,
Chipewyan Peirse Dene Nation



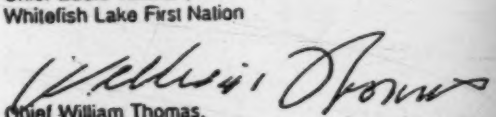
Chief Johnsen Sewepagaham,
Little Red River Cree Nation



Chief Bernie Meneen,
Tallcree First Nation



Chief Eddie Tallman,
Whitefish Lake First Nation



Chief William Thomas,
Woodland Cree First Nation

Chief Stanley Arcand,
Alexander First Nation

Chief Howard Mustus,
Alexis First Nation

Premier Ralph Klein

Chief Ronald Morin,
Enoch First Nation

Chief Rema Rain,
Paul First Nation

Chief Terry Buffalo,
Samson Cree Nation

Chief Harry Goodrunning,
Sunchild First Nation

Appendix E

Environmental Protection Cooperative Management Framework, 1996

ENVIRONMENTAL PROTECTION
COOPERATIVE MANAGEMENT FRAMEWORK

A cooperative management agreement is an agreement between the province and a First Nation or Aboriginal community establishing a process of consultation and cooperation on renewable resource or environmental matters of mutual interest. Although those matters of mutual interest could include land management matters, these agreements are not intended as land management tools. Industry and other stakeholders may also be parties.

Principles of Cooperative Management

Respect for Existing Rights

- Existing Treaty and Aboriginal rights are recognized and respected. Cooperative management agreements will not detract in any way from existing Treaty or Aboriginal rights or create any new Treaty or Aboriginal rights.

- Alberta's legislative and regulatory jurisdiction over natural resource and environmental matters is recognized and respected. Cooperative management agreements will not detract in any way from Alberta's proprietary rights to natural resources.

- Cooperative management agreements will also recognize and respect existing legal agreements and resource allocations.

Cooperation between the parties

- The parties to an agreement will operate openly and fairly, and will undertake their best efforts to develop mutually satisfactory approaches and solutions.

- If agreement on a particular matter cannot be achieved, Alberta will have final decision-making responsibility on matters under its jurisdiction and authority, and First Nations or Aboriginal communities will have final decision-making responsibility on matters under their jurisdiction or authority.

Input and involvement

- The consultation and cooperation process established by the agreement should be open and accessible to all agreed upon stakeholders. All

resource users need to be fairly represented.

Sustainable Development

- Agreements will be based on a commitment to sustainable development. This recognizes that the stewardship of renewable resources and the environment are the basis of wise land use planning.

Local benefits from resource development

- Agreements should strive to help First Nations or Aboriginal communities develop their local economy. Economic and social benefits for First Nations or Aboriginal communities should be an objective within the broader goal of promoting economic and social benefits for local people.

Resource allocations

- Cooperative management agreements may provide specific renewable resource management consultation or participation mechanisms for First Nations or Aboriginal communities. Any allocation of renewable resources under the umbrella of a cooperative management agreement will be provided within the same rules applicable to all Albertans.

Economic benefits from the private sector

- The emphasis will be on economic opportunities generated by the private sector.

Some Benefits of Cooperative Management Agreements

Cooperative Management Agreements can have many benefits, including:

- providing a vehicle for meaningful consultation by working cooperatively with First Nations or Aboriginal communities to achieve resource or environmental management objectives and improve relations;

- providing a framework for First Nations or Aboriginal communities to have opportunities to benefit economically and socially from resource development;

- facilitating development activity on a stable, long-term basis, with the consultation of all key stakeholders; and

- assisting First Nations or Aboriginal communities in working towards long-term, meaningful, sustainable employment.

Appendix F

Memorandum of Intent Between the Government of Alberta, the Government of Canada, and the Whitefish Lake First Nation, 1988

SCHEDULE "L"

November 25, 1988

MEMORANDUM OF INTENT

On November 25, 1988, the negotiators representing Alberta, Canada, and the Whitefish Lake Indian Band agreed to submit the following tentative settlement proposal to their respective principals for their consideration.

1. RESERVE LAND

Subject to third party interests being satisfied in a manner acceptable to Canada, Alberta and the Band, Alberta agrees to transfer to Canada, for establishment as Indian Reserves, 5500 acres more or less, including mines and minerals, such lands to be selected by the Band from land made available for that purpose by Alberta.

2. CASH PAYMENT

(a) Canada agrees to pay to the Band 8.333 million dollars and Alberta agrees to pay to Canada, or its designate, 10.833 million dollars on the execution of the final agreements subject to the appropriation of funds by Parliament and the Legislature of Alberta for this purpose;

(b) The use and allocation of the funds received by the Band pursuant to Clause 2(a) shall be set out in the final settlement agreement between Canada and the Band; and,

(c) The cash payments made pursuant to paragraph (a) are not made in substitution or replacement of any funds available to the Band from any existing or future programs of Canada or Alberta.

3. RELEASES

The Band agrees to provide Canada with a full and final release for any obligations to provide further reserve lands or land in severalty pursuant to the terms of Treaty #8. Canada agrees to provide Alberta with a full and final release from any obligations under the Constitution Act 1930 to provide further lands to Canada for the purposes of setting aside reserves or lands in severalty for the Band or its members. The Band agrees to provide Alberta with a full and final release for any and all land entitlement claims.

4. NEGOTIATING COSTS

(a) Canada agrees to reimburse the Band for all reasonable negotiation costs, including consulting fees and related travel costs, and including Band Council negotiators and related travel costs. Legal fees and disbursements are subject to the approval of the Department of Justice; and,

(b) The total amount of these costs are subject to further identification by the Band and review by Canada.

5. RATIFICATION

This Memorandum of Intent is subject to Alberta, Canada and the Band:

(a) Entering into such final agreements as are necessary to formalize the intent and terms of the settlement as reflected in this Memorandum; and,

(b) Ratifying the terms of the final agreements by obtaining appropriate governmental authority or approval from both Canada and Alberta and by obtaining approval by way of a referendum by the Whitefish Lake Band.

NEGOTIATOR FOR THE GOVERNMENT OF ALBERTA

JOHN MCCARTHY

NEGOTIATOR FOR THE GOVERNMENT OF CANADA

REM WESTLAND

NEGOTIATOR FOR WHITEFISH LAKE BAND OF INDIANS SETTLEMENT AGREEMENT

EDDIE TALLMAN

Other items upon which the parties are agreed but which will not form part of the final agreements pursuant to paragraph 5(a) and (b):

(a) Reserve Survey

Canada shall pay for all costs of surveying reserve lands required for the purposes of the agreement. Canada shall complete the survey as soon as possible after the execution of the agreement.

(b) Wildlife and Fisheries Management

Alberta and the Band agree to enter into discussions on cooperative approaches to wildlife and fisheries management in an area surrounding the Band's reserves.

(c) Additional Lands

Provided that Canada's reserve creation and addition criteria can be met:

(i) Canada agrees to the addition of the following lands into the Whitefish Lake Indian Reserve #155:

ALL THAT PORTION OF TOWNSHIP EIGHTY (80) RANGE ELEVEN (11) WEST OF THE FIFTH MERIDIAN, LYING WITHIN THE BOUNDARIES OF UTIKOOMAK INDIAN RESERVE NO. 15E AND BEING MORE PARTICULARLY SHOWN OUTLINED IN RED AND DESIGNATED H.B. CO AS SHOWN ON A PLAN OF SURVEY OF SAID INDIAN RESERVE, AS SURVEYED BY J.L. REID, DOMINION LAND SURVEYOR, A.D. 1908, CONTAINING 7.85 HECTARES (19.40 ACRES) MORE OR LESS;

(ii) The Whitefish Lake Band Development Corporation agrees to transfer to Canada, for incorporation into Whitefish Lake Indian Reserve #155, surface title to the said lands; and,

(iii) Alberta agrees to transfer to Canada, for incorporation into Whitefish Lake Indian Reserve #155, title to those minerals currently owned by Alberta in the said lands.

(d) Nothing in the final agreements will affect the availability or level of funding provided to the Band under existing and future federal and provincial programs available to Indian Bands.

(e) Subject to the Memorandum of Intent and in particular paragraph 3 thereof, nothing in the final agreements will affect any other existing Treaty rights of the Band.

Appendix G

Memorandum of Understanding (MOU) between the Whitefish Lake First Nation and the Government of the Province of Alberta, 1994

Memorandum of Understanding

Between

The Whitefish Lake First Nation

and

The Government of the Province of Alberta

Pursuant to the memorandum of intent regarding the Whitefish Lake Treaty Land Entitlement Claim, the parties hereby agree to a process of cooperative management on natural resource matters in areas within Forest Management Unit S-9 (F.M.U. S-9). Cooperative management is hereby defined as a process of consultation and cooperation on matters of mutual interest.

The parties agree that nothing in this agreement, or resulting from this agreement, is intended to abrogate on derogate from any aboriginal or treaty rights referred to in Section 35 of the Constitution Act, 1982.

The parties acknowledge and agree that nothing in this agreement, or any subsequent agreement signed as a result of it, shall be construed as limiting the Government of Alberta in the exercise of its legislative and regulatory jurisdiction over matters in relation to natural resources.

Objectives of the Agreement

1) Develop a process of mutual cooperation and consultation on natural resource matters in areas of F.M.U. S-9 in order to attempt to resolve issues of concern.

2) As a first priority, the parties will initially undertake a process to:

   i) secure for the Whitefish Lake First Nation, or some wholly owned corporate entity, a Deciduous Timber Permit in F.M.U. S-9 of not less than 50,000 cubic metres per year for a period of not less than five years commencing in 1994.

   ii) attempt to secure employment and business opportunities and other socio-economic benefits to Whitefish Lake First Nation members from the remainder of the deciduous timber allocation in F.M.U. S-9, through consultation with private sector companies in the area.

   iii) secure for members of the Whitefish Lake First Nation a portion of the commercial fishery allocation in the lakes within F.M.U. S-9.

3. Additional processes will be initiated to attempt to address other natural resource matters which are jointly identified by the Steering Committee described below.

Steering Committee

- A Whitefish Lake First Nation - Province of Alberta Steering Committee shall be established to undertake consultation regarding the objectives of this agreement. Working sub-committees will be established to deal with specific issues.

- The Steering Committee shall be responsible for identifying key resource management issues and areas of concern; for establishing processes to address these key issues; and for recommending processes to resolve issues, including development of recommendations for policy interpretations or changes in policy that may be required to achieve the objectives of this agreement.

- The Steering Committee shall consist of the Assistant Deputy Minister of Land and Forest Services, Assistant Deputy Minister of Natural Resources Services, a senior representative of Alberta Aboriginal Affairs and representatives from the Whitefish Lake First Nation. Other representatives may attend to address specific issues.

- The Committee will meet on a monthly basis or as required to address the objectives of the agreement and provide appropriate documentation.

Dated, this 12th day of December, 1994

Chief and Council of the
Whitefish Lake First Nation

Chief Eddie Tallman

Councillor

Councillor

Councillor

Councillor

Government of the Province
of Alberta

Honourable Ty Lund
Minister of Environmental Protection

Witness:
Pearl Calahasen, M.L.A.

Honourable Mike Cardinal
Minister of Family and Social
Services, and Responsible for
Aboriginal Affairs

Witness:
Pearl Calahasen, M.L.A.

Appendix H

Memorandum of Agreement between the Whitefish Lake First Nation and the Government of the Province of Alberta, 1994

MEMORANDUM OF AGREEMENT made this 12 day of December, 1994.

BETWEEN:

HER MAJESTY THE QUEEN in right of the Province of Alberta, as represented by the Minister of Environmental Protection (hereinafter referred to as the "Minister"),

OF THE FIRST PART

and

THE CHIEF AND COUNCIL OF THE WHITEFISH LAKE FIRST NATION

OF THE SECOND PART

WHEREAS the Minister desires to provide for the utilization of the deciduous timber resource of Township 80 Range 9 to 11, Township 81 Range 9 to 11, Township 82 Range 10 to 12, west of the 5th meridian.

THEREFORE in consideration of the premises and covenants herein the parties agree as follows:

A. FIBRE SUPPLY PROVIDED BY THE MINISTER

1. Deciduous timber permits (DTPs) in forest management unit (FMU) S9.

DTPs will be issued for a period of seven years, ending in the timber year 2001, to the Whitefish Lake Development Corporation or other legal entity ("Whitefish") established by Whitefish Lake First Nation to conduct forestry operations.

The amount of available annual allowable cut (AAC) from the deciduous stands in the S9 FMU is set at 50 000 cubic metres (m^3), except where immediate downward adjustment is made by the Minister during the quadrant due to drastic depletion of the applicable growing stock by fire or other destructive causes.

The AAC to be harvested by DTP is the pure deciduous component of the agreement area, comprised of both Trembling aspen and Balsam Poplar, and the incidental deciduous volume generated from the harvest of coniferous and mixedwood stands. Failure to harvest and fully utilize the Balsam Poplar component of the agreed wood supply will result in a reduction of the 14 000 m^3 AAC. No rights are implied by this Agreement to the incidental conifer that will be generated by the harvest operation of the DTPs.

The Minister shall provide Whitefish with volumes of deciduous timber by way of non-competitive DTPs to be issued on a one-year renewable basis and will provide an average of 50 000 m^3 annually.

For the first quadrant (two year period) ending March 31, 1996, the total volume granted by DTPs to Whitefish will not exceed 100 000 m^3. During the second quadrant, from April 1, 1996 to March 31, 2001, the production granted by DTPs to Whitefish will not exceed 250 000 m^3. Carry over of uncut volume from quadrant to quadrant will not be permitted.

Fish and Wildlife and Land and Forest Services will work together with the Whitefish Lake First Nation to provide guidance in long range wildlife management and timber management to arrive at a long range resource management plan for the agreement area.

This Agreement gives no control or rights over land or mineral resources in the agreement area.

2. Stumpage Rate

Whitefish will pay the regulation rate of dues applicable for deciduous timber species harvested under the non-competitive DTPs.

3. Renewal

At the end of this Agreement the Minister will review this Agreement and the feasibility of renewing it, based on an assessment of the original objectives and the Whitefish Lake First Nation's desire to continue. Assessment will include a review of Whitefish's success in conducting operations consistent with the Alberta Timber Harvest Planning and Operating Ground Rules, and the Forests Act and the Public Lands Act and the regulations under those Acts.

B. WHITEFISH LAKE FIRST NATION COMMITMENTS

1. Objectives

The Whitefish Lake First Nation agrees to meet the objectives of the deciduous timber resource utilization/habitat development project through:

Being involved in timber harvest planning to meet the objectives of wildlife management consistent with the memorandum of understanding of the Whitefish Lake First Nation land claim.

Committing to utilize the deciduous timber resource.

Providing for the development of local contractor entrepreneurs.

Providing training experience and employment to the local people during the harvesting of the timber available.

Operating within the standards specified in the Alberta Timber Harvest Planning and Operating Ground Rules and within the conditions of approval for the DTPs.

Integrating harvest plans with the coniferous quota holder, Zeidler Forest Products Ltd., detailing the utilization of the coniferous resource on the DTPs.

IN WITNESS WHEREOF the party of the first part executes this Agreement under the hand of the Minister subscribed hereunder and the party of the second part executes this Agreement by subscribing hereunder the signatures of its duly authorized corporate officers this 12 day of December, 1994.

Her Majesty the Queen
in Right of Alberta

Minister of Environmental Protection

Witness
Ms. Pearl Calahasen, MLA
Lesser Slave Lake

Honourable Ty Lund

The Chief and Council of the Whitefish Lake First Nation

Acknowledged and agreed to by
the Minister of Family and Social
Services, also Responsible for
Aboriginal Affairs

Eddie Tallman

Honourable Mike Cardinal

Per: Councillor

Per: Councillor

Witness

Per: Councillor

Per: Councillor

Appendix I

Implementation Plan for the Whitefish Lake First Nation MOU, 1997

November 21, 1997

Implementation Plan for the Co-operative Management Memorandum of Understanding

Between

The Whitefish Lake First Nation

and

The Government of the Province of Alberta

Guiding Principles:

Whereas the Whitefish Lake First Nation (WFLFN) and the Government of Alberta, jointly referred to as "the parties", signed documents entitled Memorandum of Agreement and a Memorandum of Understanding (MOU) dated December 12, 1994;

and Whereas the WFLFN and Province of Alberta Steering Committee was established to undertake consultation regarding the objectives of the MOU;

and Whereas the objectives of the MOU provide for the development of a process of mutual cooperation and consultation on natural resource matters in Forest Management Unit (FMU) S-9 in order to attempt to resolve issues of concern;

and Whereas the parties will pursue participation of other parties as required in implementing action plans pursuant to the MOU;

and Whereas the principles of resource management within FMU S-9 are based on sustained development, integrated resource management, care, respect, protection of the environment and consideration of biodiversity;

and Whereas increased participation of Whitefish Lake residents in employment opportunities, and resource and land use planning is desirable;

and Whereas the WFLFN has primary responsibility for the maintenance of community values, traditions and the well-being of Whitefish Lake people;

and Whereas the Parties agree that traditional ecological knowledge, scientific knowledge, and economic factors are important considerations in the management of resources;

and Whereas the MOU Steering Committee is responsible for recommending processes to resolve issues, including development of recommendations for policy interpretations or changes in policy that may be required to achieve the objectives of the MOU;

and Whereas Natural Resources Service and Land and Forest Service together with the Whitefish Lake First Nation will work cooperatively on fish, wildlife and timber management;

and Whereas the parties acknowledge this Implementation Plan as a vehicle to achieve the principles of the MOU;

and Whereas this process is consistent with the statements made by the Honorable Ty Lund, Minister of Environmental Protection, in the attached speech presented on December 12, 1994;

NOW, THEREFORE the Parties Agree to the Following Actions:

Committee Structure

1.0 The Parties will establish a regional management structure for successful implementation of the MOU, to be known as the Implementation Committee. The Terms of Reference for this committee are enclosed in Attachment #1.

Areas of Mutual Interest

2.0 Traditional and current land use, occupancy studies and inventories will be undertaken by WFLFN after acquiring and assessing existing information from Alberta Environmental Protection and other sources. The WFLFN will identify specific sites that have a cultural, spiritual, or historic significance. These sites will be considered for the placement of a protective notation under the Land Status Automated System.

Research and Inventory Projects
(May include the following studies)

- Inventories and mapping of all forest values (including non-market forest values);
- Old villages and burial sites, spiritual places and ceremonial grounds;

- Archeological values;
- Riparian areas;
- Buffer zone requirements;
- Fish and wildlife;
- Habitat protection and reclamation;
- Migratory birds and waterfowl;
- Fur bearers;
- Traplines;
- Traditional trails and current trails;
- Vegetation (including rare and endangered plants, medicinal plants and sacred plants);
- Recreation;
- Traditional harvesting sites;
- Non-renewable natural resources such as minerals, oil and natural gas, and
- Treatments carried out on forest lands, such as harvesting and renewing trees.

2.1 WFLFN will conduct research on the development of community education, including seminars on the meaning of sustainable development, the definition of biodiversity and on harvesting processes. These seminars are to be geared to different age cohorts and sectors.

2.2 WFLFN will research, design and implement a process for community awareness and education pertaining to the contents and structure of the Whitefish Lake Harvesting Plan, including the principles and practices contained within the Alberta Timber Management Operating Ground Rules.

2.3 WFLFN will implement a process for improved communication between Whitefish Lake Logging, forest industries, Whitefish Lake trappers and Settlement trappers regarding consultation prior to timber harvesting on traplines.

2.4 WFLFN will review the issue of buffer zones and road allowances with elders, hunters and trappers. These discussions, to shape the final forest management plan, will include buffer zone width in riparian areas and possible variances at certain locations.

2.5 WFLFN will conduct research regarding non-market values of forests and value differences between men and women who use the forest.

Economic Opportunities

3.0 The Parties agree to identify economic opportunities in the Natural Resources sector, and to promote greater interest among members of the WFLFN. This may lead to new contractual or joint venture arrangements with the private sector.

3.1 The Implementation Committee will implement a process with Whitefish Lake to establish core groups of trained individuals for employment in silvicultural and fire fighting opportunities.

Commercial Fishing

4.0 The Implementation Committee will continue to pursue commercial fishing opportunities and will provide options and suggestions to the Steering Committee.

Education and Training

5.0 The WFLFN will take the lead role in developing a comprehensive plan outlining the education and training requirements of Whitefish Lake residents in the area of resource management. Environmental Protection will identify the technical and educational requirements for resource management positions within the department. This ongoing, cooperative process will identify: sources of training and education programs; existing structures and opportunities; and establish an inventory of human resources available at the community level. A preliminary plan of education and training requirements will be completed within six months of the approval of the overall Implementation Plan.

Communications Strategy

6.0 The Parties agree to develop a comprehensive communications strategy which will be approved by the Implementation Committee.

6.1 The purpose of this communications strategy will be three-fold: to promote an awareness and understanding of the MOU; to encourage the development of formal and informal lines of communication among various parties in order to help match the skills, services and capabilities of the WFLFN with potential economic development opportunities; and, to coordinate the distribution of written materials from various sources which are relevant to the objectives and activities under the MOU.

6.2 Whitefish Lake representatives will take primary responsibility for informing Whitefish Lake members. Alberta Government representatives will take primary responsibility for informing other departments. The Steering Committee shall take joint responsibility for informing other institutions such as the Canadian Association of Petroleum Producers (CAPP) and businesses operating in the S-9 management area.

6.3 Best efforts will be made to provide material in both Cree and English.

WHITEFISH LAKE FIRST NATION

Chief Eddie Tallman

Councillor Dwayne Thunder

Councillor Leonard Nahachick

ALBERTA ENVIRONMENTAL PROTECTION

Cliff Henderson, Assistant Deputy Minister,
Land and Forest Service

Morley Barrett, Assistant Deputy Minister,
Natural Resources Service

ALBERTA INTERGOVERNMENTAL AND ABORIGINAL AFFAIRS

Cliff Supernault, Assistant Deputy Minister,
Aboriginal Self - Reliance Initiatives

Appendix J

Terms of Reference for the Whitefish Lake First Nation Memorandum of Understanding Implementation Committee, 1997

ATTACHMENT #1

November 21, 1997

Whitefish Lake Cooperative Management Implementation Committee

TERMS OF REFERENCE

Pursuant to the Memorandum of Understanding (MOU) on Cooperative Management signed by the Whitefish Lake First Nation (WFLFN) and the Government of Alberta (jointly referred to as "the parties") on December 12, 1994, and the Cooperative Management Implementation Plan dated November 21, 1997, an Implementation Committee is hereby established.

The purpose of the Implementation Committee will be to undertake a process of meaningful consultation and cooperation on renewable resource or environmental matters of mutual interest within Forest Management Unit S-9, and to put into effect the Implementation Plan dated November 21, 1997.

The Implementation Committee will report to the Steering Committee referenced in the above noted MOU. The membership of the Implementation Committee will consist of up to three representatives from the WFLFN and up to three senior regional representatives from the Department of Environmental Protection, as well as designated alternates. With the mutual consent of the parties, appropriate support staff and other government or non-government representatives may attend and participate in some or all of the Implementation Committee meetings.

The Implementation Committee shall establish its own work plans, working procedures and

operating guidelines. The committee may establish working groups, with their own Terms of Reference, to address specific or technical matters. A preliminary chart displaying this operational structure is attached. Each of the parties will be responsible for their own costs relating to any aspect of the operations of the Implementation Committee or the working groups.

The Implementation Committee shall prepare an annual summary of its activities for review and approval by the Steering Committee. The first summary of activities will cover the period December, 1994 to December, 1997, to reflect the activities that have occurred since the MOU was signed. Subsequent annual summaries will be prepared at the end of each calendar year.

The parties have drafted the attached Preliminary List of Discussion Items which reflects the current priority areas that the Implementation Committee will focus on. This list will be reviewed and approved by the Steering Committee and may be revised or amended in the future as circumstances warrant, with the approval of the Steering Committee.

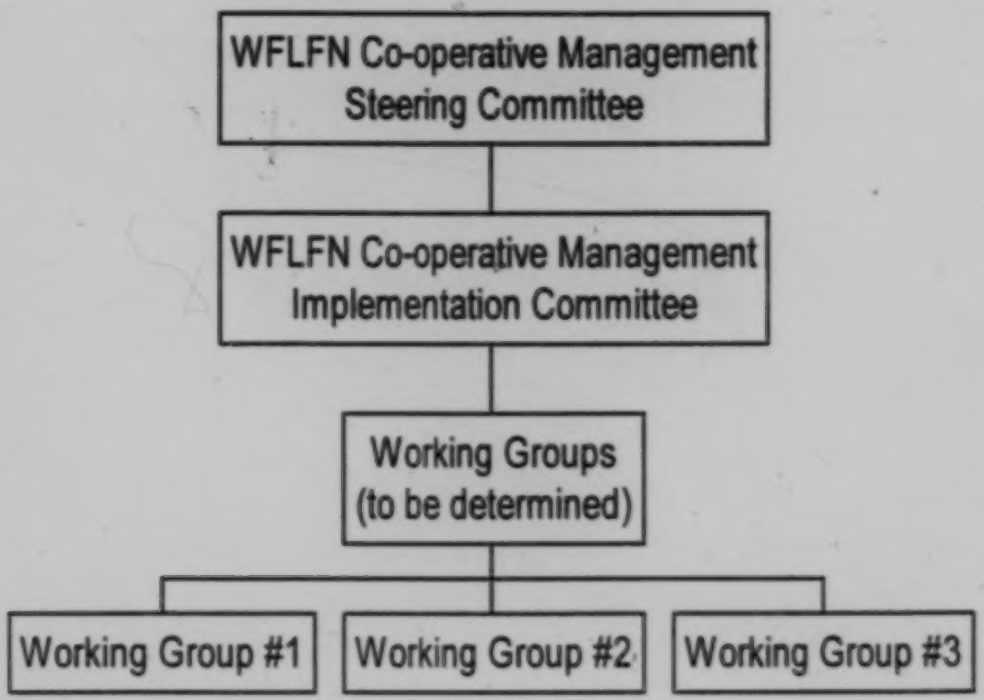
DRAFT

PRELIMINARY LIST OF DISCUSSION ITEMS

- Fire training opportunities
- Land use research opportunities
- Integrating traditional knowledge with current science
- Silviculture opportunities
- Eco-tourism opportunities
- Guiding and outfitting licences
- Fishery allocation
- Trapper compensation issues
- Beaver dams / Right-of-ways
- Review of AOPs and GDPs
- Sustainable yield / inventory
- Environmental Health Study results

List updated November 21, 1997

WHITEFISH LAKE FIRST NATION
COOPERATIVE MANAGEMENT M.O.U.
OPERATIONAL STRUCTURE


WFLFN Co-operative Management Steering Committee
WFLFN Co-operative Management Implementation Committee
Working Groups (to be determined)
Working Group #1
Working Group #2
Working Group #3

Appendix K

Memorandum of Understanding Between the Little Red River Cree Nation, the Tallcree First Nation and the Government of Alberta, 1995

CONFIDENTIAL
MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT IS MADE BETWEEN:

The LITTLE RED RIVER CREE NATION, represented by their duly authorized Chief, and Council;

AND

The TALLCREE FIRST NATION, represented by their duly authorized Chief, and Council;

(collectively referred to as the "First Nations" for the remainder of this Memorandum)

AND

The GOVERNMENT OF ALBERTA, represented by the Honourable Minister of Environmental Protection and the Honourable Minister of Family And Social Services and Aboriginal Affairs (referred to as "Alberta" for the remainder of this Memorandum).

PREAMBLE

WHEREAS Alberta and the First Nations recognize that it is in their best interest to achieve sustainable development within the First Nations' areas of traditional use (referred to collectively as the "Area" for the remainder of this Memorandum) to ensure that the Area's natural resources contribute to the development of the economies of Alberta and the First Nations;

WHEREAS Alberta and the First Nations recognize that resource management based upon the principle of sustainable development requires an integrated approach, taking into account the delicate balance between First Nations traditional or cultural uses with the rights of use enjoyed by non-natives;

WHEREAS the responsible management of the Area in accord with the principles of sustainable development will benefit all Albertans both now and in the future;

WHEREAS employment opportunities and economic development of Aboriginal communities are major priorities of Alberta as detailed by Strategic Direction Seven contained in the Canada Forest Accord attached as Appendix "A";

WHEREAS Alberta and the First Nations agree that opportunities for the participation of other stakeholders in the Area will be vital to the process;

WHEREAS Little Red River Forestry Ltd. is owned by the Little Red River Cree Nation, and is the holder of a coniferous timber quota certificate in Forest Management Unit F6 for the benefit of Little Red River Cree Nation and their peoples (the "Quota");

WHEREAS Alberta may only grant ministerial consent for long term coniferous timber permits for Forest Management Units F3, F4 and F6 to an incorporated entity owned by either of the First Nations for the benefit of the First Nations, and not to the First Nations directly;

WHEREAS Askee Development Corporation is a not for profit corporation and is owned by the Little Red River Cree Nation for the benefit of the Little Red River Cree Nation and their peoples, and which will additionally benefit the Tallcree First Nation and their peoples;

WHEREAS Alberta and the First Nations agree that responsible management of the Area must be supportive of local and regional resource based economies;

WHEREAS Alberta and the First Nations, with a view to ensuring sustainable development, wish to engage in the preparation of a Forest Management Plan for that portion of the Area comprised by Forest Management Units F6, F3, F4 more particularly described in Appendix "B" (referred to as "Special Management Area" for the remainder of this Memorandum), in which First Nations will play an integral part ;

WHEREAS this Memorandum will not operate to abrogate, derogate, or in any way affect aboriginal rights nor the rights granted to these respective First Nations or any other First Nation pursuant to Treaty 8 or section 35 of the *Constitution Act 1982*, nor shall this Memorandum, or any subsequent agreement signed as a result of it, be construed as limiting the Government of Alberta in the exercise of its legislative and regulatory jurisdiction over matters in relation to natural resources; and

WHEREAS the intention of this document is to confirm existing commitments, state general principles, record the Parties' intentions, and to provide a broad framework for future agreements, and is not intended to create legally enforceable obligations.

THEREFORE THE PARTIES AGREE TO THE FOLLOWING:

1. Alberta and the First Nations commit themselves to the development of a Forest Management Plan for the Special Management Area, and in furtherance thereof agree to take the preparatory steps necessary to support the commencement of the process, including, without limitation, nominating representatives, passing resolutions as required, and committing sufficient resources.

2. Alberta and the First Nations agree that the following framework will guide the phased implementation of this Memorandum.

PHASE ONE:

Goal: To ensure that current and future timber management and dispositions are consistent with the spirit and intent expressed in this Memorandum.

Steps To Implementation:

(a) Alberta agrees to issue long term coniferous timber permits for Forest Management Units F3 and F4 to the Askee Development Corporation for the benefit of the First Nations (the "Permits"). The Permits will set annual harvest levels of 42,000 cubic meters in F4 and 19,000 cubic meters in F3. An immediate downward adjustment to these levels may be made by the Minister during the quadrant due to drastic depletion of the applicable growing stock by fire or other destructive causes.

These annual harvest levels will be reviewed during the forest management planning process. Harvest levels will be established based upon revised inventory information and the forest management strategies recommended in the plan.

The Permits will be issued for a term of not less than (1) one year and not more than (6) six years. The Quota and the Permits will co-exist for the remainder of the normal quota (20) twenty year period which is scheduled to expire in the year 2006. Thereafter, the Minister will review the Memorandum and the feasibility of renewing them based upon an assessment of the original objectives and the desire of the First Nations to continue.

(b) The First Nations will cause Askee Development Corporation, or other legal entity owned by the First Nations for the benefit of their peoples (whichever may be applicable), to commit coniferous timber resources within Forest Management Units F3, F4 and F6 to local and regional user groups whose interests are compatible with the management direction in the approved Forest Management Plan for the Special Management Area;

(c) The First Nations will cause Askee Development Corporation, or other legal entity owned by the First Nations for the benefit of their people (whichever may be applicable), to carry out reforestation on all areas harvested under CTP's as referred to in this Memorandum.

(d) The First Nations will cause Askee Development Corporation, or other legal entity owned by the First Nations for the benefit of their peoples (whichever may be applicable), to commit a portion of the timber resource revenue received from harvesting coniferous timber from Forest Management Units F3, F4, and F6 to the implementation of this Memorandum, such amount to be not less than $2.00 per cubic metre;

(e) Alberta agrees to provide administration cost funding respecting the implementation of this Memorandum (up to a maximum of 5% of Eligible Costs) by entering into the Master Agreements with the Askee Development Corporation for the benefit of the Little Red River Cree Nation pursuant to the Forest Resource Improvement Program authorized under the Environmental Protection and Enhancement Act, for Forest Management Units F3, F4 and F6;

(f) This Memorandum does not apply to the disposition of, exploration for, or recovery of the mineral resources within the Area.

(g) Harvest operations will be conducted within the standards specified in the Alberta Timber Harvest Planning and Operating Ground Rules and within the conditions of approval for the permits.

(h) Harvest plans will be integrated to reflect the needs of other users and disposition holders within the area.

(i) The First Nations will cause Askee Development Corporation or other legal entity owned by the First Nations for the benefit of their people (which ever may be applicable), to pay the regulation rate of dues applicable for the timber species harvested under the non-competitive permits.

Timelines: Step (a) and the initial aspects of step (b) will be undertaken immediately, with a completion date of June, 1995. The continued

commitment incorporated in steps (b) and (c), and steps (d), (e), (f) and (g) will be on-going throughout the currency of this Memorandum.

PHASE TWO:

Goal:

Complete an evaluation of the Special Management Area from an ecosystem approach by:

(a) reviewing existing data related to resource inventories, land use patterns and use impacts.

(b) identifying areas where further information will be required; and

(c) guiding and funding further studies.

Steps To Implementation:

(a) The parties agree to establish a Forest Management Planning Board (the "Board") with the responsibility for developing a Forest Management Plan including all aspects of carrying out the evaluation for the Special Management Area;

(b) The parties agree that the Board will be comprised of (3) three representatives from Alberta, (3) three representatives from the Little Red River Cree Nation, two (2) representatives from the Tallcree First Nation, and (1) one representative from the Municipal District of MacKenzie #23;

(c) The Board is empowered by this Memorandum to determine its own practice, procedure and processes evidenced by formal documents such as By-laws and Operating Procedures;

(d) Notwithstanding section (c) above, the parties agree that the Board will strive to develop consensus-based agreement. If the Board is unable to reach consensus on a matter before it, there must be a majority vote of the representatives of the First Nations before the matter can result in an agreement;

(e) The parties agree that in recognition of the interests of industry in the Special Management Area, the Board may also,

as required from time to time, have non-voting members from resource-based industries such as forestry or oil and gas;

(f) The parties agree that in recognition of particular environmental concerns that may arise in the Special Management Area, the Board may also, when required, invite the participation of a non-voting member representing special interest groups;

(g) The parties recognize that opportunities for public consultation and for the receipt of multi-stakeholder input are vital to this process, accordingly, the Board may:

(i) identify groups of stakeholders to function as advisors to the Board;

(ii) establish mechanisms to solicit and review public comment; and

(iii) consult or second experts, as necessary, to assist the Board in reaching its recommendations; and

(h) The parties agree to finance and empower their respective representatives. The parties agree to work collaboratively in securing access to funding including, but not limited to, forest resource revenues accruing in the Special Management Area, the aforementioned Forest Resource Improvement Program, as well as funds that may be contributed by the Government of Canada in recognition of their special fiduciary responsibility towards the First Nations.

Timelines: Steps (a), (b) and (c) will be completed on or before July 31, 1995. Completion of the information gathering and consultation process of this Phase is anticipated within (12 - 18) twelve to eighteen months from the date this Memorandum is signed.

PHASE THREE:

Goal: To prepare a Forest Management Plan for the Special Management Area that will be submitted for review by the Government of Alberta and the First Nations.

Steps To Implementation:

(a) The parties agree that the preparation of the Forest Management Plan for the Special Management Area will be the responsibility of the Board;

(b) The parties agree that sustainable development will be the fundamental principle guiding the development of the Forest Management Plan;

(c) The parties agree that without limitation, the Forest Management Plan will:

(i) establish resource use priorities that are compatible with sustainable development and traditional use of the area by the First Nations;

(ii) develop objectives and guidelines for use of forest resources in the Special Management Area;

(iii) identify and foster employment and training opportunities for the First Nations associated with the management of natural resources within the Area; and

(iv) set out special initiatives to address all wildlife and wildlife habitat concerns.

Timelines: Interim report within (2) two years from the date this Memorandum is signed.

PHASE FOUR

Goal: To formulate strategies to ensure the Forest Management Plan is implemented in a manner that is consistent with the direction contained in the plan.

Steps To Implementation:

(a) To assist in the implementation of the Forest Management Plan, the Board may make recommendations regarding:

(i) specific management or development mechanisms that may be required;

(ii) administrative or contractual adjustments that may be

(ii) administrative or contractual adjustments that may be necessary; and

(iii) amendments to regulations, laws, or government policies.

Timelines: It is anticipated that the initial recommendations made under this Phase will be offered within (6) six months from the date the Forest Management Plan is reviewed and recommendations are made by Alberta and by the First Nations.

The parties agree that the matters contained and referred to in the Preamble to this Memorandum, Appendix "A" and "B" to this Memorandum, are expressly incorporated into and form part of this Memorandum.

1. This Memorandum shall be in force on the day immediately following the date on which all parties have signed, and shall continue thereafter for a period of (3) three years.

2. Any of the parties may terminate their obligations under this Memorandum by providing at least (30) thirty days written notice to the other parties. This written notice must include a statement regarding the reasons for the termination.

IN WITNESS WHEREOF the parties have executed this Memorandum at the Town of Peace River in the Province of Alberta, on Fri day, the 26 day of May, 1995.

LITTLE RED RIVER CREE NATION

The Chief and Council of the Little Red River Cree Nation for an on behalf of the Little Red River Cree Nation, also known as the Little Red River Cree Indian Band

Witness

Per: _____
Chief

Per: _____
Council Member

Per: _____
Council Member

TALLCREE FIRST NATION

The Chief and Council of the Tallcree First Nation for and on behalf of the Tallcree First Nation, also known as the Tallcree First Nation

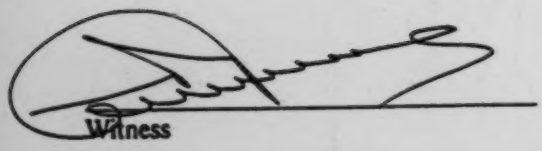
Witness

Per: _____
Chief

Per: _____
Council Member

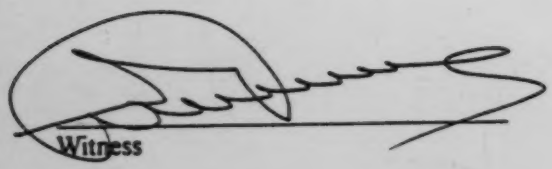
Per: _____
Council Member

ALBERTA



Ty Lund
Minister of Environmental Protection

ALBERTA



M. Cardinal
Minister of Family & Social Services and Aboriginal Affairs

Appendix L

Letter of Intent Between the Little Red River Cree Nation, the Tallcree First Nation and the Government of Alberta, 1996

LETTER OF INTENT September 5, 1996

COOPERATIVE FOREST MANAGEMENT AND WOOD SUPPLY AGREEMENTS WITH LITTLE RED RIVER CREE NATION ('LRRCN') AND TALLCREE FIRST NATION('TCFN')

This letter outlines the mutual intent of the Province of Alberta, LRRCN and TCFN to develop an understanding regarding the co-operative management of forest resources in the Northwest Boreal Region and the allocation of timber resources.

The Province of Alberta and the First Nations' vision is to ensure that forest allocations and practices are sustainable and conducted within an ecological framework. The Parties appreciate the need to recognize traditional values and to create, maintain and enhance economic opportunities at the community level.

It is the intent of the Province of Alberta with the agreement of the LRRCN and TCFN to:

1. The Province of Alberta, LRRCN and TCFN agree to amend the existing Memorandum of Understanding (MOU), dated May 26, 1995, between the Government of Alberta and the Little Red River Cree Nation and the Tallcree First Nation to:

   (a) Expand the "Special Management Area" described in Appendix "B" of the MOU to include Forest Management Units (FMUs) F2, F5, F7, and F10, as determined by the Forest Management Planning Board and approved by the Minister.

   (b) To the greatest extent possible, forest management and planning of the "Area" will be integrated, notwithstanding that the plan will be comprised of two compartments in connection with DMI/High Level and the First Nation's harvest levels.

   (c) Provide an opportunity to expand the Forest Management Board to include representation from Daishowa-Marubeni International Ltd. (High Level Forest Products).

(d) Alberta agrees to commence negotiations in a timely fashion for the purpose of formalizing First Nation involvement in the forest management of the "Special Management Area". Such negotiations will deal with the establishment of forest management agreements, economic opportunities for the First Nations, and traditional First Nation use interests within the "Area".

2. The Province of Alberta and the First Nations will enter into an agreement where the Province will allocate an annual harvest:

(a) Little Red River Cree Nation's allocation is the deciduous timber resource (55 000 m^3) from the mixedwood stands and the incidental conifer (43 000 m^3) from the operation of the pure deciduous stands in FMUs F3, F4 and F6.

(b) Tallcree First Nation's allocation is the deciduous timber resource of 80 000 m^3 of which 50 000 m^3 is from the pure stands in FMU F5 and 30 000 m^3 from the mixedwood stands in F5 and F7 or such forest management units as may be mutually acceptable.

(c) These allocations will be granted when Alberta issues DTAs for the Footner Timber Development Area (TDA). The timber allocations will be subject to renewal in the year 2006 to be consistent with the coniferous quota renewal requirements.

3. The Province will maintain a deciduous timber reserve for future development of pure stands in FMUs F3, F4 and F6. Forest management guidelines for the reserve include:

(a) Commercial Timber Permits or other appropriate tenure will be direct issued to Little Red River Cree Nation and Tallcree First Nation for volumes not exceeding the Annual Allowable Cut, within the context of harvesting these stands to meet the objectives of the forest management plan in FMUs F3, F4 and F6.

(b) A forest inventory will be completed before the timber is committed to a development.

(c) The Province will negotiate with Little Red River Cree Nation and Tallcree First Nation regarding:

(i) Any formal agreement related to allocation or commitment of this reserve volume prior to execution of such an agreement; and

(ii) The terms and conditions under which allocation of this reserve volume is to be effected should DMI elect to proceed with phase two expansion in the year 2006.

(d) The Province will encourage all parties to enter into good faith negotiations regarding development of a mutually acceptable vehicle for allocation of this reserve volume in support of the proposed DMI phase two expansion.

4. (a) The Province will mandate the local Footner Timber Development Advisory Committee to undertake the following advisory role to the Minister:

(i) To review the draft Request for Proposal document and make recommendations for revision prior to release of the RFP;

(ii) To review applications/proposals received under the RFP and make recommendations regarding selection of the proponent and conditions related to the award; and

(iii) To function in an advisory / consultative role following award to the successful proponent under this RFP.

(b) First Nation representation on the Advisory Committee will be expanded to ensure that Little Red River Cree Nation and Tallcree First Nation each have one representative on the Committee.

(c) It is understood that this letter of intent will be amended, as mutually agreed, to allow for participation of the proponent selected under the Request for Proposals (RFP) in the forest management planning process.

5. This letter of intent will not operate to abrogate, derogate, or in any way affect aborignal rights nor the rights granted to these respective First Nations or any other First Nation pursuant to Treaty 8 or section 35 of the *Constitution Act 1982*, nor shall this letter of intent, or any subsequent agreement signed as a result of it, be constructed as limiting the Government of Alberta in the exercise of its legislative and regulatory jurisdiction over matters in relation to natural resources; and

With the understanding of the above intentions of the Little Red River Cree Nation and Tallcree First Nation are in agreement with the Footner Lake timber development (RFP) proceeding. The signing of this Letter of Intent confirms our mutual understanding.

Chief of the Little Red River Cree Nation

Chief of the Tallcree First Nation

Minister of Environmental Protection

Witness

Minister Without Porfolio
Responsible for Children Services

Appendix M

Memorandum of Understanding Between the Little Red River Cree Nation, the Tallcree First Nation and the Government of Alberta, 1999

MEMORANDUM OF UNDERSTANDING

September 1, 1999

THIS AGREEMENT IS MADE BETWEEN:

The **LITTLE RED RIVER CREE NATION**, represented by their duly authorized Chief, and Council:

AND

The **TALLCREE FIRST NATION**, represented by their duly authorized Chief, and Council;

(collectively referred to as the "**First Nations**" for the remainder of this Memorandum)

AND

The **GOVERNMENT OF ALBERTA**, represented by the Honourable Minister of Environment and the Honourable Associate Minister of Aboriginal Affairs

(referred to as "**Alberta**" for the remainder of the Memorandum).

PREAMBLE:

WHEREAS

A. Alberta remains committed, through the adoption of the *Alberta Forest Legacy* and the Canada Forest Accord (1998), to the concept of sustainable development, adaptive management and the consideration of local views, values and needs in resource management.

B. Alberta and the First Nations concur on the need for development of sustainable ecological management practices so that the human use of the renewable natural resources does not exceed the ecosystem's ability to perpetuate itself;

File: 11530bG DOX WJR 837502 WS1 1

C. Alberta has developed a Cooperative Management Framework document (November 1996) that promotes consultation and cooperation on renewable resource or environmental matters of mutual interest, and establishes principles on which MOUs are based;

D. The on-going efforts of Alberta and the First Nations to achieve sustainable development and cooperative management within the traditional use areas are identified in the Memorandum of Understanding dated May 26, 1995 as amended pursuant to the execution of Letter of Intent dated September 5, 1996;

E. Alberta and the First Nations support the principle in the National Forest Strategy, 1998 (Strategic Direction 7) which states:

> *To address their legitimate needs and aspirations, Aboriginal communities require greater access to forest resources, and an increased capacity to benefit from forests in their areas of traditional use and Treaty areas, and to contribute to their management.*

F. Alberta and the First Nations wish to engage in a cooperative renewable resource management planning process focused at a landscape level upon the use of renewable natural resources in a responsible manner which will support local and regional, resource based economies:

G. This Memorandum will not operate to abrogate, derogate, or in any way affect Aboriginal rights nor the rights granted to these respective First Nations or any other First Nation pursuant to Treaty 8 or section 35 of the *Constitution Act 1982*; nor shall this Memorandum, or any subsequent agreement signed as a result of it, be construed as limiting or impairing Alberta in the exercise of its legislative and regulatory jurisdiction over matters in relation to natural resources:

H. Alberta and the First Nations acknowledge and agree that this Memorandum is not an allocation process for renewable resources and Crown lands, nor does it create any proprietary interests in renewable resources and Crown lands; and

I. The intention of this document is to confirm existing commitments, state general principles, record the Parties' intentions, and to provide a broad framework for future agreements. This document is not intended to create legally enforceable obligations.

THEREFORE THE PARTIES AGREE TO THE FOLLOWING:

ARTICLE 1: INTERPRETATION

1.1 Definitions

For the purpose of this Agreement, each of the following expressions has the meaning ascribed to it in Section 1, unless otherwise specifically provided:

File: 115308 G DOX WIR 837302 WS1 1

(a) **"Agreement"** means this Memorandum of Understanding dated the 1st day of June, 1999;

(b) **"Cooperative Renewable Natural Resource Management Plan"** means a landscape assessment and a resource management philosophy and goal statement more particularly described in the *Interim Forest Management Planning Manual, April, 1998* published by Alberta Environmental Protection:

(c) **"Cooperative Renewable Natural Resource Management Planning Process"** (or concisely cooperative planning process) means a process to establish one or more forms of collaborative forest management planning which, as outlined in the *Alberta Forest Legacy*, will continue to evolve between the various industrial, commercial and community users of the renewable natural resources;

(d) **"Cooperative Management Planning Board"** means the Board established pursuant to the MOU dated May 26, 1995 as amended by the Letter of Intent dated September 5, 1996 and modified and expanded herein:

(e) **"Forest Management Plan"** means the completion of long range and operational timber plans as required through the *Forest Act* and the *Timber Management Regulations*, A.R. 60/73;

(f) **"Renewable Natural Resources"** means all those forest resources including air, land, water, forest, fish and wildlife, parks and natural areas, as contemplated in the concept of sustainable forest management. Renewable natural resources does not include sub-surface, non renewable resources including oil, gas, precious metals, mines or minerals;

(g) **"Resource Management Philosophy and Goal Statement"** means a statement to guide management of renewable natural resources within the Special Management Area for a period of approximately five (5) to ten (10) years in duration. Such a Resource Management Philosophy and Goal Statement is intended to reflect the policy objectives and guidelines found in national and provincial agreements and policies related to the management of renewable natural resources.

(h) **"SFM-NETWORK"** means the Network of Centres of Excellence in Sustainable Forest Management with local offices conducted through the University of Alberta;

(i) **"Special Management Area or SMA"** means that Crown forest land base defined by Forest Management Units F2, F3, F4, F5, F6, F7, and portions of F10 and A9 or, as subsequently modified and agreed to by the Cooperative Management Planning Board; and

(j) **"Technical Planning Committee"** means that committee established through mutual agreement by the regional, resource-based industries with business interests and activities within the SMA.

File: 115308.G DOC WJR 837702 W51

1.2 **Preamble and Schedules**

The Parties hereby confirm and ratify the matters contained and referred to in the Preamble and all Schedules of Appendices to this agreement and agree that same are expressly incorporated into and form part of this agreement.

ARTICLE 2: MUTUAL COMMITMENTS

2.1 **Alberta and the First Nations commit themselves to the implementation and conduct of a cooperative renewable natural resource management planning process related to management of renewable natural resources within the Special Management Area;**

2.2 Alberta and the First Nations commit to take all those actions necessary to support the ongoing conduct of this cooperative renewable natural resource management planning process;

2.3 Alberta and the First Nations agree and commit themselves to fulfil and honour all those outstanding obligations contained in the MOU of May 26, 1995, as amended by the Letter of Intent dated September 5, 1996, and which are not specifically modified by the terms of this agreement. The commitments are enclosed as Appendix 1.

ARTICLE 3: THE COOPERATIVE MANAGEMENT PLANNING BOARD

3.1 Alberta and the First Nations agree that the Cooperative Management Planning Board (the "Board") established pursuant to the May 26, 1995 Agreement, shall continue as part of the cooperative planning process;

3.2 Membership of the Board

Members	Eligible Voting Representatives
Alberta	3
Little Red River Cree Nation	3
Tallcree First Nation	2
Municipal District of Mackenzie No. 23	1
Daishowa-Marubeni International Ltd.	1
Footner Forest Products Ltd.	1
Askee Development Corporation	1
Netaskinan Development Corporation	1

3.3 Alberta and the First Nations agree, in recognition of the emerging interest by industry in the development of oil, gas, precious metals, mines and mineral resources, that the Board, at its discretion, may undertake to solicit and encourage membership by industry stakeholders and by the Alberta Department of Resource Development;

3.4 Alberta and the First Nations agree, in recognition of environmental matters which might arise within the Special Management Area, that the Board, at its discretion, may invite the participation of environmental non-government organizations or special interest groups in the cooperative planning process; and

3.5 Alberta and the First Nations agree that this cooperative planning process must include full opportunity for public consultation and the inclusion of multi-stakeholder input. Accordingly, the Board, in consultation with its participating industrial, First Nation and government organizations, will:

(a) identify and implement a process for stakeholders to interact with the Board;

(b) establish mechanisms for public review and comment; and

(c) consult with, or second experts as necessary to assist the Board.

ARTICLE 4: BOARD PROCESS AND INTEGRATION

4.1 Alberta and the First Nations agree that, subject to the provisions of Appendix 2, the Board is empowered by this MOU to determine its own practices, procedures and processes evidenced by formal documents including By-laws and operating procedures;

4.2 Notwithstanding section 4.1 above, Alberta and the First Nations agree that the Board shall strive to develop consensus-based practices, procedures, and processes. If the Board is unable to reach consensus on a matter before it, any matter decided by a majority vote of Board members must include a majority vote of First Nation Board members in order to effect a Board agreement;

4.3 Alberta and the First Nations agree that the Technical Planning Committee, established through agreement by the regional resource based industries, shall remain in place, and shall be given a mandate to support and assist the Board to develop and conduct a cooperative planning process. The Technical Planning Committee, as established, is comprised of representatives from the following within the Special Management Area:

Daishowa-Marubeni International Ltd.
Footner Forest Products Ltd.
Askee Development Corporation
Netaskinan Development Corporation, and
Little Red River Cree Environmental Division;

The Technical Planning Committee will develop a terms of reference that will be signed by members of the Technical Planning Committee and will be forwarded to the Board for review and approval.

File: 15406 G DOX WIR 837402 WS1 1

4.4 Alberta and the First Nations agree, given their respective membership and participation in the SFM-Network, that the Board shall establish a cooperative research and planning relationship with the SFM-Network Caribou-Lower Peace Research Initiative. This cooperative research and planning relationship is viewed by Alberta and the First Nations as responsive to the principle of adaptive management, and the need to establish ecological management practices within the Special Management Area.

ARTICLE 5: BOARD FINANCE AND FUNDING

5.1 Alberta and the First Nations agree to finance and empower their respective representatives on the Board; and

5.2 Alberta and the First Nations agree to work cooperatively towards identification of funding sources and securing funds to support the cooperative planning process and the associated SFM-Network research within the Special Management Area through sources that may include without limitation:

(a) private sector, corporate forest resource revenues accruing within the Special Management Area;

(b) funds that may be available through the Forest Resource Improvement Association;

(c) funds solicited from the Government of Canada in recognition of their special fiduciary responsibility toward the First Nations.

ARTICLE 6: APPROVAL PROCESS

Considerations

6.1 The parties to this MOU acknowledge and agree that Ministerial discretion can not be fettered. The Board shall report to the Minister of Environment and the Minister has final decision making authority on matters within provincial jurisdiction.

6.2 Alberta and the First Nations agree that, upon approval of the Resource Management Philosophy and Goal Statement by the Minister, the Board shall have a mandate and responsibility for providing advice and recommendations to the Minister on the following:

(a) development of renewable resource management mechanisms or processes which are required to implement the integrated resource management process;

(b) development of administrative or contractual relationships which are required for implementation;

File [illegible] DOX WJR 817302 W41

(c) recommend amendments to regulations, policies or laws which are required for implementation.

6.3 The Board will work collaboratively with local and regional, resource based industries operating within the Special Management Area to ensure that management plans, strategies and practices reflect the goals and objectives established through this cooperative planning process.

ARTICLE 7: BOARD REPORTING/TERM OF THE AGREEMENT

7.1 The Board will prepare annual reports for the year ending March 31st, which outline its activities and the results that have been achieved. These reports will include an assessment relating to the performance measures and business plans of appropriate Alberta government departments.

7.2 Consistent with Alberta's three-year business planning cycle, this MOU will be in effect until March 31, 2001. At that time, the Parties will undertake a formal evaluation of the progress and results that have been achieved, as the basis for determining renewal of the MOU and any modifications that may be required.

7.3 Any of the parties may terminate this Memorandum by providing at least (30) thirty days written notice to the other parties. The written notice must include a statement regarding the reasons for the termination.

7.4 The Parties agree that this Memorandum of Understanding will become a public document upon execution.

LITTLE RED RIVER CREE NATION

Per: _____
Chief Johnsen Sewepagaham

TALLCREE FIRST NATION

Per: _____
Chief Frank Meneen

File 11530-G DOX WIR 81702 W51 1

ALBERTA

Per: _____

Minister of Environment

ALBERTA

Per: _____

Associate Minister of Aboriginal Affairs

APPENDIX 1

Alberta and the First Nations agree and commit themselves to fulfil and honour all those outstanding obligations contained in the MOU of May 26, 1995, as amended by the Letter of Intent dated September 5, 1996, and which are not specifically modified by the terms of this agreement. Without limitation, these commitments include:

(a) to prepare a Forest Management Plan using the Interim Forest Management Planning Manual for the specific areas contained within the geographic boundaries of Forest Management Units F3, F4 and F6;

(b) prepare a Cooperative Renewable Natural Resource Management Plan for the Special Management Area that will be submitted for review by the Government of Alberta and the First Nations. This plan will consist of:

- a Resource Management Philosophy and Goal Statement: and
- a list of recommendations for integration of this information with ongoing management plans and strategies within the SMA.

(c) ensure that current and future timber management and dispositions are consistent with the spirit and intent expressed in this agreement. as outlined more specifically in the 1995 MOU in the section entitled: "Phase One: Steps to Implementation";

(d) continue negotiations in a timely fashion for the purpose of formalizing First Nation involvement in the forest management of the Special Management Area. Such negotiations will deal with the establishment of Forest Management Agreements. economic opportunities for the First Nations and. traditional use interests within the Special Management Area:

(e) enter into agreements where the Province will allocate an annual harvest to the First Nations concurrent with issuance of DTAs for the Footner Timber Development area. all subject to renewal consistent with coniferous quota renewal requirements: and

(f) enter into agreements under which future allocation of the timber stands in FMUs F3. F4. F6 and A9 will be made to corporations owned by the First Nations and this timber will continue to be available to support regional and local mill operations. Within the context of this agreement:

(i) Commercial Timber Permits or other appropriate tenure will be direct issued to Little Red River Cree Nation for volumes not exceeding the Annual Allowable Cut. within the context of harvesting these stands to meet the objectives of the Forest Management Plan in FMUs F3. F4 and F6.

(ii) Commercial Timber Permits or other appropriate tenure will be direct issued to Tallcree First Nation for volumes not exceeding the Annual Allowable Cut, within the context of harvesting these stands to meet the objectives of the Forest Management Plan in FMU A9.

(iii) a forest inventory will be completed before the timber is committed to a development.

Alberta and the First Nations acknowledge and agree that nothing in this Appendix, nor any subsequent agreement signed as a result of it, be construed as limiting, impairing or otherwise fettering Alberta in the exercise of its legislative authority and regulatory jurisdiction over matters in relation to natural resources.

APPENDIX 2

Operational Guidelines for the Cooperative Management Planning Board

1. Alberta and the First Nations agree that the Board has a mandate and responsibility to undertake, and report on the cooperative landscape assessment related to management and use of renewable natural resources within the Special Management Area, including the planning mandate to consider;

   (a) environmental aspects related to eco-system integrity, biodiversity and landscape patterns and structure;

   (b) the presence of endangered, threatened or rare species of flora or fauna within the Special Management Area;

   (c) economic aspects related to resource values, current resource uses, potential future resource uses, development costs and opportunity costs associated with the prescribed resource uses;

   (d) social aspects related to the value of renewable natural resources from a First Nations perspective;

   (e) integration of ecological, economic and social aspects relating to planning and management responsibilities within the Special Management Area.

2. The Board will develop a Resource Management Philosophy and Goal Statement which, if approved by the Minister, is intended to guide the management and use of renewable natural resources within the Special Management Area. Without limitation, the fundamental principles guiding development of the Resource Management Philosophy and Goal Statement shall be sustainable development, ecological management and adaptive management as these principles are defined in the *Alberta Forest Legacy* and the *Interim Forest Management Planning Manual, April 1998*. Within the context of these three principles, the Resource Management Philosophy and Goal Statement shall:

   (a) recommend resource use priorities that are compatible with sustainable development and traditional use of the Special Management Area by the First Nations;

   (b) recommend objectives and guidelines for management and use of renewable natural resource with the Special Management Area;

   (c) identify economic development, employment and training opportunities and initiatives for the First Nations within the Special Management Area;

   (d) identify special initiatives to address First Nations concerns regarding management of wildlife and wildlife habitat within the Special Management Area; and

3. The Board will submit the items outlined in point 2. above, to Alberta and to the First Nations for comprehensive review and comment.

Appendix N

Memorandum of Understanding between the Horse Lake First Nation and the Government of the Province of Alberta, 1997

MEMORANDUM OF UNDERSTANDING

between

THE HORSE LAKE FIRST NATION

and

THE GOVERNMENT OF THE PROVINCE OF ALBERTA

Pursuant to the Memorandum of Understanding between the Grand Council of Treaty 8 First Nations and the Government of Alberta dated February 10, 1993, the parties hereby agree to a process of cooperative management on environmental and renewable resource matters within mutually agreed upon areas of Treaty 8. Cooperative management is hereby defined as a process of consultation and cooperation on matters of mutual interest.

The parties agree that nothing in this Memorandum of Understanding (M.O.U.) , or resulting from this M.O.U. , is intended to abrogate or derogate from any Aboriginal or treaty rights referred to in Section 35 of the Constitution Act, 1982, or in Treaty 8, 1899.

The parties agree that nothing in this M.O.U. shall be construed as having any effect whatsoever with respect to future decisions by the Horse Lake First Nation on the matter of Aboriginal self-government.

The parties acknowledge and agree that nothing in this M.O.U., or any subsequent agreement signed as a result of it, shall be construed as limiting the Government of Alberta in the exercise of its legislative and regulatory jurisdiction over matters in relation to natural resources or the environment.

OBJECTIVES OF THE M.O.U.

1. To create a structure and process to implement cooperative management and to address matters of mutual interest.

2. To facilitate the development of more specific initiatives to help achieve the economic, social or cultural objectives of the Horse Lake First Nation.

3. To promote and foster the development of effective working relationships on environmental and renewable resource matters with Alberta government departments.

4. To ensure a shared commitment to the principles of ecosystem management and sustainable development in the implementation of this M.O.U.

As a first priority, the parties to this M.O.U. will develop an Implementation Plan which will identify issues and opportunities over both the short term and long term. The Implementation Plan will focus on matters within the following sectors of Alberta Environmental Protection:

- Natural Resources Service
- Land and Forest Service
- Environmental Regulatory Service

The Implementation Plan will promote meaningful consultation on matters in these sector areas to support the objectives listed above.

OPERATING PROCEDURES

1. The implementation of this Memorandum of Understanding will occur through the following committees:

a) Steering Committee

Appointed by the Chief and Council of the Horse Lake First Nation and the Minister of Environmental Protection, the Steering Committee will be composed of representatives of the Horse Lake First Nation and appropriate senior officials from the Government of Alberta.

The Steering Committee will meet on an annual basis to:

- undertake consultation regarding the objectives of this agreement
- establish priorities and an implementation plan
- identify key resource management issues and opportunities
- review recommendations from the Working Committee described below.

b) Working Committee

Composed of representatives from the Horse Lake First Nation and appropriate Government of Alberta departments.

The Working Committee will meet on a regular basis to:

- address the priorities, key issues and implementation plan approved by the Steering Committee.
- develop recommendations on environmental and renewable resource matters for review by the Steering Committee.
- establish technical sub-groups which will deal with specific technical issues on an as-required basis.

2. With the concurrence of both parties to this M.O.U., additional resource or support staff from the Horse Lake First Nation or the Government of Alberta may participate in any of the committees referred to in section #1, on an as-required basis.

3 With the concurrence of both parties to this M.O.U., representatives of industry, local governments or other stakeholders may participate in any of the committees referred to in section #1.

4. Each party to this M.O.U. will be primarily responsible for their own administrative costs related to the operations or implementation of the Memorandum of Understanding. This section is not intended to preclude the Horse Lake First Nation from obtaining grants or program funding from Alberta government departments or other agencies for specific initiatives.

5. Additional operating or administrative procedures may be established by mutual agreement of the two parties.

6. The parties to this M.O.U. agree to operate openly and fairly and will undertake their best efforts to develop mutually satisfactory approaches and solutions.

Dated this 23rd day of June, 1997

Chief and Council of the
Horse Lake First Nation

Chief Robert Horseman

Councillor Faye Horseman

Councillor Dean Horseman

Government of the
Province of Alberta

Honourable Ty Lund
Minister of Environmental Protection

Honourable Dave Hancock
Minister of Federal and
Intergovernmental Affairs and
Responsible for Aboriginal Affairs

Wayne Jacques M.L.A.

Appendix 0

Implementation Plan for the Horse Lake First Nation MOU, 1998

April 21, 1998

IMPLEMENTATION PLAN
for the Cooperative Management Memorandum of Understanding

Between

The Horse Lake First Nation

and

The Government of the Province of Alberta

Whereas the Horse Lake First Nation and the Government of Alberta (the parties) signed a Memorandum of Understanding (MOU) dated June 23, 1997,

and Whereas the parties agree to operate openly and fairly and will undertake their best efforts to develop mutually satisfactory approaches and solutions on environmental and renewable resource matters of mutual interest:

and Whereas the parties acknowledge this Implementation Plan as a framework to achieve the objectives outlined in the MOU;

NOW, THEREFORE the parties agree to the following actions:

Committee Structure

1.0 The Chief and Council of the Horse Lake First Nation and the Deputy Minister of Environmental Protection will each name their representatives to form the **Steering Committee**.

1.1 The Steering Committee will meet on an annual or semi-annual basis to:

- develop a list of areas of mutual interest and concern for discussion by the Working Committee;
- undertake consultation regarding the objectives of this agreement, if required;
- determine annual work priorities and approve work plans prepared by the Working Committee;
- review recommendations from the Working Committee, and;
- review overall implementation of the MOU.

1.2 The Steering Committee will prepare an annual status report to be sent to the Chief and Council of the Horse Lake First Nation and appropriate ADMs from Environmental Protection.

1.3 The Steering Committee may, upon mutual consent, refer recommendations to the Chief and Council of the Horse Lake First Nation and appropriate ADMs from Environmental

Protection, if required.

1.4 Chairmanship of the Steering Committee will alternate between the Horse Lake First Nation and Alberta Environmental Protection. The Chair party will ensure the taking of minutes, which must be approved by both parties before finalization.

1.5 The **Working Committee** will be composed of representatives from the Horse Lake First Nation and appropriate Government of Alberta departments.

The Working Committee will meet on a regular basis to:

- define issues and recommend priorities for consideration by the Steering Committee;
- develop annual work plans for approved priorities;
- implement approved work plans, and:
- develop recommendations for the Steering Committee on work plan matters beyond the mandate of the Working Committee.

1.6 In doing its work, the Working Committee may draw in resources or support staff from the Horse Lake First Nation or the Government of Alberta, on an as-required basis.

1.7 With the concurrence of both parties to this MOU, representatives of industry, local governments or other stakeholders may participate in any of the committees referred to in Section 1.

1.8 Each party to this implementation plan will be responsible for its own administrative costs related to the operations or implementation of the Memorandum of Understanding. This section is not intended to preclude the Horse Lake First Nation from obtaining grants or program funding from Alberta government departments or other agencies for specific initiatives.

1.9 Additional operating or administrative procedures may be established by mutual agreement of the two parties.

1.10 This implementation plan may be amended at any time by mutual agreement of the two parties.

Communications Strategy

2.0 The Parties agree to develop communications strategies as required, which will be approved by the Steering Committee.

2.1 The purpose of the communications strategies will be: to promote an awareness and understanding of the MOU; to encourage the development of formal and informal lines of

communication among various parties in order to help match the skills, services and capabilities of the Horse Lake First Nation with potential economic development opportunities; to coordinate the distribution of written materials from various sources which are relevant to the objectives and activities under the MOU; and to further specific work initiatives.

Horse Lake First Nation
Natural Resource Committee

Alfred Goodswimmer

Jack Patterson

Karen Horseman

Brad Kachuk

Government of the
Province of Alberta

Cliff Henderson
Assistant Deputy Minister
Land and Forest Service

Morley Barrett
Assistant Deputy Minister
Natural Resources Service

Cliff Supernault
Assistant Deputy Minister
Aboriginal Self-Reliance Initiatives
Intergovernmental and Aboriginal
Affairs

Initial Areas of Discussion Identified by the Horse Lake First Nation for Consideration as 1998 Priorities

Traditional and current land use. occupancy study and inventory
Fisheries Management
    Indian Sport Fishing Licencing Process
Wildlife Management
    Elk Management
    Moose Management
    Wildlife Surveys
    Wildlife Conference
Meaningful Consultation Process
Land Use Activities
Special Places 2000 Program and First Nations
Establishing a Working Relationship with Industry
Forestry Joint Ventures
Training Programs
Potential Environmental Guardian Program

Appendix P

Framework for Developing Consultation Agreements

FRAMEWORK FOR DEVELOPING CONSULTATION AGREEMENTS

A consultation agreement is an agreement between the province and a First Nation, Tribal Council or Aboriginal community establishing a formal process of dialogue and cooperation on renewable resource or environmental matters of mutual interest. Consultation does not necessarily imply "consent".

Principles of Consultation

Respect for Existing Rights

- Existing treaty and Aboriginal rights are acknowledged and respected. Consultation agreements will not affect existing treaty or Aboriginal rights or create any new treaty or Aboriginal rights.

- Alberta's legislative and regulatory jurisdiction over natural resource and environmental matters is acknowledged and respected. Consultation agreements will affect Alberta's proprietary rights to natural resources.

- Consultation agreements will also acknowledge and respect existing legal agreements and resource allocations.

Cooperation between the parties

- The parties to an agreement will operate openly and honestly in the spirit of cooperation, and will undertake their best efforts to achieve understanding.

Input and involvement

- The consultation and cooperation process established by the agreement should be open and accessible to all stakeholders. All resource users need to be fairly represented.

Sustainable Development

- Agreements will be based on a commitment to sustainable development. This recognizes that the stewardship of renewable resources and the environment are the basis of wise land use planning.

Local benefits from resource development

- Agreements should strive to help First Nations or Aboriginal communities develop their local economy. Economic and social benefits for First Nations or Aboriginal communities should be an objective within the broader goal of promoting economic and social benefits for local people.

Economic benefits from the private sector

- The emphasis will be on economic opportunities generated by the private sector.

Some Benefits of Consultation Agreements

Consultation Agreements can have many benefits, including:

- providing a vehicle for meaningful consultation by working cooperatively with First Nations or Aboriginal communities and improving relations;

- providing a framework for First Nations or Aboriginal communities within which opportunities will be available for them to benefit economically and socially from resource development;

- assisting First Nations or Aboriginal communities in working towards long-term, meaningful, sustainable employment.